

T I T L E 5
BUSINESS REGULATIONS

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TITLE 5 BUSINESS REGULATIONS

CHAPTER 1

AMUSEMENTS

SECTIONS:

- 5-1-1 License Required
- 5-1-2 Duration of License
- 5-1-3 Fire Inspections

5-1-1 License Required. No person shall keep, conduct, carry on, or operate any roller skating rink, shooting gallery, theatre, or any machine or apparatus for amusement or trial of skill or strength, including, but not limited to, pin ball machines, not otherwise provided for herein in this Section for a fee, charge, or profit, unless he shall first procure a license and pay a fee therefore in accordance with Title 5, Chapter 15 of the City Code.

5-1-2 Duration of License. The licenses required under this Chapter shall expire on the expiration of the day, week, or month for which issued, and in the case of annual licenses, such license shall expire on the thirty-first (31) day of December after it's issuance:

5-1-3 Fire Inspections. No license shall be issued for a roller skating rink (indoor), shooting gallery, theatre, or any other building which requires an amusement permit before such building has been inspected by the Fire Department and has been certified that such building is in compliance with the fire codes.

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CHAPTER 2

OUTDOOR COMMERCIAL ENTERTAINMENT ESTABLISHMENT PERMIT

SECTIONS:5-2-1 Outdoor Commercial Entertainment Establishment Permit 5-
2-2 Application, Fee, Renewal, and Transfer

5-2-1 Outdoor Commercial Entertainment Establishment Permit. No person, association, firm or corporation shall operate an outdoor commercial entertainment establishment for profit which engages in the playing or rendition of music or singing using amplification of sound or amplification of the human voice without first acquiring a valid permit issued by the city clerk for such establishment pursuant to the provisions of this chapter. The permit shall allow such operation only between the hours of 10:00 o'clock a.m. and 1:30 o'clock a.m. on the following morning. A permit once issued may be suspended or revoked by the City Administrator or his/her designee pursuant to the rules and guidelines established by the City Administrator or his/her designee. An applicant or permit holder aggrieved by a decision of the City Administrator or his/her designee shall have the right of appeal to the City Council. Any person who violates this section shall be charged with a municipal infraction and shall be subject to a civil penalty of \$500.00 for the first violation and a civil penalty of \$750.00 for each subsequent violation.

5-2-2 Application for Annual Permit, Fee, Renewal, and Transfer of Permit. Application for an outdoor commercial entertainment establishment permit shall be filed with the city clerk on forms provided for that purpose. A permit may be applied for and issued to expire one year following the date of the issuance of the permit and the fee shall be \$10.00 which fee may be changed by Resolution of the City Council. An application for a renewal of a permit shall be filed not later than one month prior to the date of expiration of the permit.

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CHAPTER 3

BEER AND LIQUOR

SECTIONS:

- 5-3-1 Purpose
- 5-3-1 Definitions
- 5-3-2 Eligibility for Liquor Control License or Beer Permit
- 5-3-3 Conditions for Approval of License or Permit; Premises
- 5-3-4 Beer Permits; Classes
- 5-3-5 Liquor Licenses; Classes
- 5-3-6 Separate Locations; Class "B" or "C"
- 5-3-7 Application, Contents; Bond
- 5-3-8 Investigation of Applicant
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- 5-3-12 Nature of License or Permit
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- 5-3-14 Expiration of License or Permit
- 5-3-15 Refunds
- 5-3-16 Transfers
- 5-3-17 Prohibited Sales and Acts
- 5-3-18 Beer Brand Signs Prohibited
- 5-3-19 Suspension and Revocation
- 5-3-20 Effect of Revocation
- 5-3-21 Appeal and Hearing
- 5-3-22 Consumption in Public Places; Possession of Open Containers; Intoxication
- 5-3-23
- 5-3-24 Persons Under Legal Age
- 5-3-25 Dancing Permitted; License
- 5-3-26 Penalties
- 5-3-27 Persons Under Legal Age Frequenting Taverns
- 5-3-28 Open Containers

5-3-1 Purpose. The purpose of this Ordinance is to provide administration of licenses and permits and for local regulations and procedures for the conduct of the sale and consumption of beer and liquor for the protection of the safety, morals, and general welfare of this community.

5-3-2 Definitions. Where words and phrases used in this

Ordinance are defined by State law, such definitions shall apply to their use in this Ordinance and are adopted by reference. Those definitions so adopted that need further definition or are reiterated, and other words and phrases used herein, shall have the following meanings:

- (A) "Person of good moral character" means any person who meets all of the following requirements:
1. He has such financial standing and good reputation as will satisfy the City Council and the Director that he will comply with the Iowa Beer and Liquor Control Act and all other laws, ordinances, and regulations applicable to his operations under State law.
 2. He does not possess a Federal Gambling Stamp, except for such gambling activities as are permitted by the laws of the State of Iowa.
 3. He is not prohibited by the provisions of Section 5-3-21 of this Ordinance from obtaining a liquor license or beer permit.
 4. He is a citizen of the United States and a resident of Iowa, or licensed to do business in Iowa in the case of a corporation.
 5. He has not been convicted of a felony. However, if his conviction of a felony occurred more than five (5) years before the application for a license or permit, and if his rights of citizenship have been restored by the Governor, the Director may determine that he is a person of good moral character notwithstanding such conviction.
 6. If such person is a corporation, partnership, association, club, hotel, or motel, the requirements of this subsection shall apply to each of the officers, directors, and partners of such person, and to any person who directly or indirectly owns or controls ten percent (10%) or more of any class of stock of such person or has an interest of ten percent (10%) or more in the ownership or profits of such person. For the purpose of this provision, an individual and his spouse shall be regarded as one person.
- (B) "Club" means any nonprofit corporation or association of individuals which is the owner, lessee, or occupant of a permanent building or part thereof, membership in which entails the prepayment of regular dues and is not operated

for a profit other than such profits as would accrue to the entire membership.

- (C) "Commercial establishment" means a place of business which is at all times equipped with sufficient tables and seats to accommodate twenty-five (25) persons at one time, and the licensed premises of which conform to the ordinances of this City.
- (D) "Grocery store" means any retail establishment, the business of which consists of the sale of food, food products, or beverages for consumption off the premises.
- (E) "Pharmacy" means a drug store in which drugs and medicines are exposed for sale and sold at retail, or in which prescriptions of licensed physicians and surgeons, dentists, or veterinarians are compounded and sold by a registered pharmacist.
- (F) "Hotel" or "motel" means a premise licensed by the State Department of Agriculture and regularly or seasonally kept open in a bona fide manner for the lodging of transient guests, and with twenty (20) or more sleeping rooms.
- (G) "Legal age" means twenty-one (21) years of age or more.

5-3-3 Eligibility for Liquor Control License or Beer Permit. Upon meeting the requirements imposed by State law and the ordinances of this City, a person who is of good moral character as defined by State law and this Ordinance may apply for a liquor control license or a beer permit. In the case of a club, corporation, or partnership, the officers of the club or corporation and the partners of a partnership shall be persons of good moral character as defined by State law and this Ordinance.

5-3-4 Conditions for Approval of License or Permit; Premises. An applicant for a new liquor control license or beer permit or for the renewal of such license or permit, as a further condition for approval by the City Council, must give consent in writing on the application that members of the Fire, Police, and Health Departments and the Building Inspector may enter upon the premises without warrant to inspect for violations of the provisions of State law and this Ordinance, and provide that:

- (A) No liquor control license or beer permit shall be approved for premises which do not conform to all applicable laws, ordinances, resolutions, and fire regulations.
- (B) No licensee shall have or maintain any interior access to residential or sleeping quarters unless permission is granted by the State Beer and Liquor Control Director in the form of a living quarters permit.

- (C) The premises for which a Class "B" beer permit is sought must be located within a business district or an area now or hereafter zoned as a business district or conform to the zoning requirements of this City.
- (D) The premises of a Class "B" beer permit shall, at the time of the application, continue to be equipped with sufficient tables and seats to accommodate twenty-five (25) persons at one time.
- (E) No state liquor store shall be located within three hundred feet (300') of a public or private educational institution unless a lesser distance is specifically authorized by ordinance.

5-3-5 Beer Permits; Classes. Beer permits shall be classed as follows:

- (A) Class "B". A class "B" beer permit shall allow the holder to sell beer at retail for consumption on or off the premises.
- (B) Class "C". A Class "C" beer permit shall allow the holder to sell beer at retail for consumption off the premises only. Such sales shall be in original containers only. No Class "C" permit shall be issued to any person except the owner or proprietor of a grocery store or pharmacy.

5-3-6 Liquor Licenses; Classes. Liquor control licenses shall be classed as follows:

- (A) Class "A". A Class "A" liquor control license issued to a club shall authorize the holder to purchase alcoholic liquors from the Department only, and to sell such liquors and beer to bona fide members and their guests by the individual drink for consumption on the premises only.
- (B) Class "B". A Class "B" liquor control license issued to a hotel or motel shall authorize the holder to purchase alcoholic liquors from the Department only, and to sell such liquors and beer to patrons by the individual drink for consumption on the premises, provided that beer may be sold for consumption off the premises. Each such license shall be effective throughout the premises described in the application.
- (C) Class "C". A Class "C" liquor control license issued to a commercial establishment must be issued in the name of the individual or individuals who actually own the entire business and shall authorize the holder or holders to purchase alcoholic

liquors from the Department only, and to sell such liquors and beer to patrons by the individual drink for consumption on the premises, provided that beer may be sold for consumption off the premises.

- (D) Special Class "C". A Special Class "C" liquor control license issued to a commercial establishment must be issued in the name or names of the individual or individuals who actually own the entire business and shall authorize the holder or holders to purchase wine containing no more than seventeen percent alcohol by weight from the Department only, and to sell such wine and beer to patrons by the individual drink for consumption on the premises, provided that beer may be sold for consumption off the premises.

5-3-7 Separate Locations; Class "B" or "C". Every person holding a Class "B" or Class "C" permit having more than one place of business where such beer is sold shall be required to have a separate license for each separate place of business, except as otherwise permitted by State law.

5-3-8 Application, Contents; Bond. A verified application for the original issuance or the renewal of a liquor control license or a beer permit shall be filed at such time, in such number of copies, and in such form as the State Director of Beer and Liquor Control shall prescribe on forms prescribed by him. The application shall be accompanied by the required fee and bond and be filed with the City Council for approval or disapproval. The bond to be submitted shall be in a form prescribed by the State Director and in the following amounts:

- (A) With any liquor control license \$5,000.00 and conditioned upon the payment of all taxes payable to the State under the provisions of the Iowa Beer and Liquor Control Act and compliance with all provisions of the Act.
- (B) With any beer permit \$500.00 and conditioned upon the faithful observance of the Iowa Beer and Liquor Control Act.

5-3-9 Investigation of Applicant. Upon receipt of an original application for a liquor license or beer permit by the City Clerk, it shall be forwarded to the Chief of Police, who shall conduct an investigation and shall submit a written report on the applicant as to the truth of the facts averred in the application and a recommendation to the City Council as to the approval of the license or permit. It shall be the duty of the Health Inspector, the Building Inspector, and the Fire Chief to inspect the premises to

determine if they conform to the requirements of the City, and no license or permit shall be approved until or unless an approving report has been filed with the City Council by such officers.

5-3-10 Application for Renewal of Permit. Before any permit renewal is granted, the Police Chief, Fire Chief, Health Inspector, and Building and Zoning Administrators shall inspect the premises of the applicant's place of business to determine whether such premises comply with the applicable provisions of City ordinances, codes, and regulations. The approval of said officials must be endorsed upon a Supplemental Application form available from the City Clerk's office in order for the permit to be renewed.

5-3-11 Civil Liability. Every liquor control licensee and Class "B" beer permittee shall furnish proof of financial responsibility either by the existence of a liability insurance policy or by posting bond in such amount as determined by the Department.

5-3-12 License and Permit Fees. A fee shall be submitted with applications for beer permits, liquor licenses, and Sunday sales permits, as required by State law and specified in Sections 123.36 and 123.134 of the Code of Iowa.

5-3-13 Nature of License or Permit. A liquor control license or beer permit shall be a purely personal privilege and be revocable for cause. It shall not constitute property nor be subject to attachment and execution nor be alienable nor assignable, and in any case it shall cease upon the death of the permittee or licensee. However, the Director may in his discretion allow the executor or administrator of a permittee or licensee to operate the business of the decedent for a reasonable time not to exceed the expiration date of the permit or license. Every permit or license shall be issued in the name of the applicant and no person holding a permit or license shall allow any other person to use same.

5-3-14 Action by Council. Action taken by the City Council shall be so endorsed on the application and thereafter the application, fee, and bond shall be forwarded to the Iowa Beer and Liquor Control Department for such further action as is provided by law.

5-3-15 Expiration of License or Permit. All liquor control licenses and beer permits, unless sooner suspended or revoked, shall expire one year from date of issuance. Six (6) or eight (8) month seasonal licenses or beer permits may be issued for a proportionate part of the license or permit fee. No seasonal license or permit shall be renewed except after a period of two (2) months. Seasonal licensing shall be only as permitted by State regulation.

5-3-16 Refunds. Any such licensee or permittee, or his executor, administrator, or any person duly appointed by the court to take charge of and administer the property or assets of the licensee or permittee for the benefit of his creditors, may voluntarily surrender such license or permit to the Department, and when so surrendered the Department shall notify the City, and the Department and the City, or the City by itself in the case of a retail beer permit, shall refund to the person so surrendering the license or permit a proportionate amount of the fee paid for such license or permit as follows: If surrendered during the first three (3) months of the period for which said license or permit was issued, the refund shall be three-fourths (3/4) of the amount of the fee; if surrendered more than three (3) months but not more than six (6) months after issuance, the refund shall be one-half (1/2) of the amount of the fee; if surrendered more than six (6) months but not more than nine (9) months after issuance, the refund shall be one-fourth (1/4) of the amount of the fee. No refund shall be made, however, for a liquor control license or beer permit surrendered more than nine (9) months after issuance. No refund shall be made to any licensee or permittee, upon the surrender of his license or permit, if there is at the time of said surrender a complaint filed with the Department or the City charging him with a violation of this Ordinance or provisions of the Iowa Beer and Liquor Control Act. If upon hearing on any such complaint the license or permit is not revoked or suspended, then the licensee or permittee shall be eligible, upon surrender of his license or permit, to receive a refund as herein provided. But if his license or permit is revoked or suspended upon such hearing, he shall not be eligible for the refund of any portion of his license or permit fee. No refund shall be made for seasonal licenses or permits.

5-3-17 Transfers. The Council will, in its discretion, authorize a licensee or permittee to transfer the license or permit from one location to another within the City, provided that the premises to which the transfer is to be made would have been eligible for a license or permit in the first instance and such transfer will not result in the violation of any law or ordinance.

5-3-18 Prohibited Sales and Acts. No person or club holding a liquor license or beer permit, nor his agents or employees, shall do any of the following:

- (A) Sell, dispense, or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor or beer.
- (B) Sell or dispense any alcoholic liquor or beer on the premises covered by the license or permit, or permit the consumption thereon between the hours of two o'clock (2:00) A.M. and six o'clock (6:00) A.M. on any weekday, and between the hours of two o'clock (2:00) A.M. on Sunday and six o'clock (6:00) A.M. on the following Monday except as is permitted by the laws of the State of Iowa.

- (C) Sell alcoholic liquor or beer to any person on credit, except with a bona fide credit card. This provision shall not apply to sales by a club to its members nor to sales by a hotel or motel to bona fide registered guests.
- (D) Employ any person under the age of eighteen (18) years old in the sale or serving of alcoholic liquor or beer for consumption on the premises where sold.
- (E) Sell, give, or otherwise supply any alcoholic beverage or beer to any person knowing or having reasonable cause to believe him to be under legal age, or permit any person knowing or having reasonable cause to believe him to be under legal age, to consume any alcoholic beverage or beer.
- (F) In the case of a retail beer permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer or any other beverage in or about his place of business.
- (G) Keep or allow to be kept, gambling devices of any kind or description on the premises or place of business of the license or permit holder, except as permitted by the laws of the State of Iowa.
- (H) Allow or permit a public appearance on licensed premises by any person who is nude or who exposes to public view the human male or female genital or genitals, pubic hair, buttocks, or perineum of the human male, or female breasts or breast at or below the areola thereof with less than a full opaque covering.

5-3-19 Beer Brand Signs Prohibited. No signs or other matter advertising any brand of beer shall be erected or placed upon the outside of any premises occupied by a licensee or permittee authorized to sell beer at retail. All such signs formerly erected shall be removed by the owner of the same by July 1, 1974.

5-3-20 Suspension and Revocation. A liquor license or beer permit may be suspended for a period up to one year, or revoked for violations of law including City ordinances following notice and hearing, and shall be revoked in accordance with the provisions of State law for any of the following causes:

- (A) Misrepresentation of any material fact in the application for such license or permit.
- (B) Violation of any of the provisions of the Iowa Beer and Liquor Control Act.

- (C) Any change in the ownership or interest in the business operated under a Class "A", Class "B", or Class "C" liquor control license, or any beer permit which change was not previously reported to and approved by the City and the Department.
- (D) An event which would have resulted in disqualification from receiving such license or permit when originally issued.
- (E) Any sale, hypothecation, or transfer of such license or permit.
- (F) The failure or refusal on the part of any licensee or permittee to render any report or remit any taxes to the Department under the State Act.

5-3-21 Effect of Revocation. Any liquor control licensee or beer permittee whose license or permit is revoked under the Iowa Beer and Liquor Control Act shall not thereafter be permitted to hold a liquor control license or beer permit in the State of Iowa for a period of two (2) years from the date of such revocation. Neither business associates holding ten percent (10%) or more of the capital stock or ownership interest in a business whose license or permit has been revoked nor the spouse of a licensee or permittee whose license or permit has been revoked shall be issued a liquor control license or beer permit, and no liquor control license or beer permit shall be issued which covers any business in which such person has a financial interest for a period of two (2) years from the date of such revocation. In the event a license or permit is revoked, the premises which had been covered by such license or permit shall not be relicensed for one year.

5-3-22 Appeal and Hearing. The right of appeal to the Hearing Board shall be afforded a liquor control licensee or beer permittee whose license or permit has been suspended or revoked. Any applicant who feels aggrieved by a decision of the Director or City disapproving, suspending, or revoking issuance of a liquor control license or beer permit may, provided he has exercised his right of appeal to the Hearing Board as provided by State law, appeal from said decision within ten (10) days to the Muscatine County District Court. The City may appeal a decision of the Hearing Board within ten (10) days to the Muscatine County District Court.

5-3-23 Consumption in Public Places; Possession of Open Containers; Intoxication. It is unlawful for any person to use or consume alcoholic liquors or beer upon the public streets or highways or alcoholic liquor in any public place, or to possess an open container of beer or alcoholic beverages upon the public streets or highways, including the sidewalk within the public right-of-way, and in any public place, except premises covered by a liquor control license, and no person shall be intoxicated or appear to be intoxicated in any public place.

5-3-24 Persons Under Legal Age. No person shall sell, give, or otherwise supply alcoholic liquor or beer to any person knowing or having reasonable cause to believe him to be under legal age, and no person or persons under legal age shall individually or jointly have alcoholic liquor or beer in his or their possession or control; except in the case of liquor or beer given or dispensed to a person under legal age within a private home and with the knowledge and consent of the parent or guardian for beverage or medicinal purposes or as administered to him by either a physician or dentist for medicinal purposes and except to the extent that a person under legal age may handle alcoholic beverages and beer during the regular course of his or her employment by a liquor control licensee or beer permittee under state law. A person 19 or 20 years of age, other than a licensee or permittee under Chapter 123, Code of Iowa, who violates this section shall, upon conviction, be subject to a fine of fifteen dollars (\$15.00).

5-3-25 Dancing Permitted; License.

- (A) Dancing Permitted. No dancing shall be permitted in connection with the operation of a business under any Class "B" beer permit or Class "C" liquor license unless the floor space used for dancing purposes therein contained at least two hundred (200) square feet, all of which shall be of the same general floor level as the place where the beer or liquor is dispensed; said space to be used for dancing shall be in the same room as, or in a room adjacent to and opening directly from, the place where beer or liquor is dispensed and with full view at all times of the major portion thereof from the place where beer or liquor is dispensed. Said floor space shall not be obstructed or crossed in any part or portion by partitions or other obstructions of any kind except necessary structural posts, pillars, or similar supports and shall be used only for dancing.
- (B) Dancing License. No Class "B" beer permit holder or Class "C" liquor licensee shall permit dancing until a license therefore has been obtained from the City Clerk's office. No dancing license shall be issued until a fee has been paid to the City Clerk's office in accordance with Title 5, Chapter 15 of the City Code, and until the premises to be used for dancing has been inspected and approved by the Police Chief, Fire Chief, and Building Inspector. A dancing license shall not be transferred. However, the City Council may, at its discretion, summarily revoke any license to dance. Clubs which comply with the requirements of State law shall not be required to obtain a dancing license.

5-3-26 Penalties

- (A) Any person who violates any of the provisions of this Chapter shall be subject to a fine of not to exceed one hundred dollars (\$100.00), or to imprisonment for not more than thirty (30) days.
- (B) The conviction of any liquor control licensee or beer permittee for a violation of any of the provisions of sub-sections (A) to (H), inclusive, of Section 5-3-18 of this Chapter shall be grounds for the suspension or revocation of the license or permit by the Department or the City. However, if any liquor control licensee is convicted of any violation of subsection 2, paragraph a, d, or e, of Section 123.49 of the Code of Iowa, or any beer permittee is convicted of a violation of subsection 2, paragraph a, of said section 123.49 of the Code of Iowa, the liquor control license or beer permit shall be revoked and shall immediately be surrendered by the holder and the bond of the license or permit holder shall be forfeited to the Department of Beer and Liquor Control.

5-3-27 Persons Under Legal Age Frequenting Taverns. No person under legal age shall frequent or be in or about the licensed premises of a Class "B" beer permittee or a Class "C" liquor control licensee unless the sale of goods or services other than alcoholic liquor or beer constitutes fifty percent (50%) or more of the gross receipts from such licensed premises. No such permittee or licensee shall permit persons under legal age to frequent or be in or about his licensed premises.

5-3-28 Open Containers. It shall be unlawful for any person or for any licensee or permittee under this Chapter or his or her agents or employees to permit any person to carry from a licensed premises any open container of beer or alcoholic beverage, including but not limited to bottles, cans, glasses, mugs, and cups, except when such carry-out is related to and necessary for custodial, maintenance, and other bona fide employment purposes.

TITLE 5 BUSINESS REGULATIONS

CHAPTER 4

BILL POSTING

SECTIONS:

- 5-4-1 Permit Required
- 5-4-2 Requirements
- 5-4-3 Merchants Requirements
- 5-4-4 Billposters, Restrictions
- 5-4-5 Consent Required
- 5-4-6 Use of Nails or Tacks
- 5-4-7 Removal

5-4-1 Permit Required. No person shall post or distribute any advertising bills, posters, or written, printed, or illustrated matter, without having first obtained a permit therefor from the City in accordance with Title 5, Chapter 15 of the City Code.

5-4-2 Requirements. City of Muscatine resident businessmen may distribute their own advertising matter without a permit as required in Section 5-4-1, provided that such distribution shall be made in such a manner as not to create a nuisance or litter and such advertising or billposting shall not be permitted on public streets or property. Such businessmen shall conform in all respects with the provisions of this Chapter except as to the requirement as to the permit.

5-4-3 Merchants Requirements. Merchants may hand bills and advertisements to persons willing to accept the same, at the entrances, or within their own storerooms, but shall refrain from scattering the same along the public sidewalks, gutters, streets, alleys, and property.

5-4-4 Billposters, Restrictions. No licensed billposter or distributor shall scatter any bills, posters, or written, printed, or illustrated matter or deliver such upon the streets or alleys of the City, hand the same to persons passing along the streets, or throw the same into yards of private buildings or the halls of public buildings or elsewhere, except to persons willing to accept the same.

5-4-5 Consent Required. Any person who shall post, paste, or attach, or cause to be posted, pasted, or attached, any bill, placard, poster, announcement, or advertisement on any house, window, sidewalk, street, building, wall, fence, or tree, or to any telegraph, telephone, or electric light or power pole or water hydrant without first obtaining the written consent of the owner or, if City property, of the Council, shall be deemed guilty of a misdemeanor. No such poster or advertisement shall be attached to any building, structure, tree, or any other object in conflict with the City's Sign Ordinance.

5-4-6 Use of Nails or Tacks. Any person who uses tacks or nails to fasten any such bill, placard, poster, announcement, or advertisement on any wall or surface along any street, sidewalk, or alley line where such nails or tacks may loosen and fall or may reach such street, alley, or sidewalk, shall be deemed guilty of a misdemeanor.

5-4-7 Removal. All bills, placards, posters, announcements, or advertisements as permitted in this Chapter shall be removed upon the request of the owner of private property and, if on public property, as directed by the City.

TITLE 5 BUSINESS REGULATIONS

CHAPTER 5

BILLIARDS; BOWLING

SECTIONS:

- 5-5-1 License Required
- 5-5-2 Application
- 5-5-3 Fees
- 5-5-4 Display of License
- 5-5-5 Gambling
- 5-5-6 Exemption

5-5-1 License Required. It shall be unlawful for any person, without having obtained a license for that purpose in accordance with Title 5, Chapter 15 of the City Code to own, operate, or maintain any room in which such person owns, operates, or maintains any pocket billiard, billiard, or similar table or any bowling alley for hire or profit, or for the privilege of using which the public or patrons of such room are required to pay, either directly or indirectly, with money or with any other thing of value. All pocket billiard, billiard, or similar tables located or kept in any place of amusement or place of public resort shall be deemed to be so located and kept for the purpose of permitting persons to play thereon for hire and profit within the meaning of this Chapter.

5-5-2 Application. Every person applying for a license under the terms of this Chapter shall make and deliver to the Clerk a written application, setting out the place in which he desires to maintain or operate pocket billiard, billiard, or similar tables or bowling alleys, the number of tables or alleys to be maintained, and who is the real and true owner of the tables or alleys to be operated.

5-5-3 Fees. The fees for licenses shall be in accordance with Title 5, Chapter 15 of the City Code.

5-5-4 Display of License. Every person holding a license shall display such license in a conspicuous place in the room in which the tables or alleys thereby licensed are maintained and operated.

5-5-5 Gambling. Any person who shall gamble, or permit gambling upon any game played on any pocket billiard, billiard, or similar table, or bowling alley, except as provided in Chapter 99B of the Code of Iowa, shall be guilty of a misdemeanor, and the Council, upon hearing, may revoke any license issued under this Chapter to such person or suspend the same for any period not less than ten (10) days.

5-5-6 Exemption. This Chapter shall not apply to any pocket billiard, billiard, or similar table or bowling alley privately maintained in a private family or in social, political, philanthropic, benevolent, educational, or in a secret club or association, when such club or association maintains or operates such table and alley for the use of its members exclusively, and when such club or association maintains and operates such tables and alleys as an incident only to the general purposes of such club or association, and where such club or association has not been organized for the purpose of maintaining, operating, or running a pocket billiard, billiard, or bowling club.

CHAPTER 6

CIGARETTES

SECTIONS:

- 5-6-1 Sale Authorized
- 5-6-2 Permit to Sell
- 5-6-3 Application
- 5-6-4 Filing Application
- 5-6-5 Application; Approval of
- 5-6-6 Mayor to Sign Permit; Term
- 5-6-7 Payment of Tax

5-6-1 Sale Authorized. The sale of cigarettes and cigarette papers and wrappers made or prepared for the purpose of making cigarettes, by holders of permits therefor issued as hereinafter provided in this Chapter, is hereby authorized.

5-6-2 Permit to Sell. It shall be unlawful for any person to sell cigarettes and cigarette papers and wrappers prepared for the purpose of making cigarettes without first obtaining a permit as provided in Title 5, Chapter 15 of the City Code and such sales must be in accordance with the provisions of Chapter 98 of the Code of Iowa.

5-6-3 Application. Any person desiring a permit to sell cigarettes and cigarette papers and wrappers prepared for the purpose of making cigarettes shall sign and file with the Clerk a written application for such permit upon a form provided by the Clerk for that purpose. Such application shall truly state the name and residence of such applicant; whether an individual, firm, or corporation; the exact location of the place where such sales are to be made and the name, residence, and post office address of the owners of such place.

5-6-4 Filing Application. Each applicant for a permit to sell cigarettes and cigarette papers and wrappers shall file with the Clerk his application prior to the deadline established by the City Council for accepting Council items at which such applicant desires the application to be acted upon.

5-6-5 Application; Approval of. At each regular meeting of the Council, the Clerk shall report to the Council each application for a permit to sell cigarettes and cigarette papers and wrappers then filed in this office. The Council shall then proceed to the consideration of such application and if it finds the same proper and sufficient, shall by motion grant the permit applied for. Thereupon the Clerk shall endorse upon the application the fact and date of the granting of the permit by the Council.

5-6-6 Mayor to Sign Permit; Term. Whenever the Council shall grant a permit as authorized in this Chapter, it shall be the duty of the Mayor to sign and issue the same, but such permit shall by its terms expire June thirtieth (30) following its issuance.

5-6-7 Payment of Tax. No permit shall be issued and delivered to any applicant, pursuant to the provisions of this Chapter, unless and until such applicant shall present the receipt of the Clerk showing that the proper sum has been paid to the officer as the tax to the next following July first (1) as provided by law.

TITLE 5 BUSINESS REGULATIONS

CHAPTER 7

CIRCUSES; CARNIVALS

SECTIONS:

- 5-7-1 License Required; Circus
- 5-7-2 Circus License; Fee
- 5-7-3 License Required; Carnival
- 5-7-4 Carnival License; Fee
- 5-7-5 Public Property

5-7-1 License Required; Circus. No person shall keep, conduct, carry on, or operate any circus or like exhibition, including side shows and other performances in connection therewith, for a fee, charge, or profit, unless he shall first procure a license therefor in accordance with Title 5, Chapter 15 of the City Code.

5-7-2 Circus License; Fee. For every circus or like exhibition, including side shows or performances at the same time and in connection therewith, there shall be paid a license fee and a bond issued to the City in accordance with Title 5, Chapter 15 of the City Code.

5-7-3 License Required; Carnival. No person shall keep, conduct, carry on, or operate any carnival or street fair, including all shows, racks, and stands exhibiting at the same time and in connection therewith, unless he shall first procure a license therefor in accordance with Title 5, Chapter 15 of the City Code.

5-7-4 Carnival License; Fee. For every carnival or street fair, including all shows, racks, and stands exhibiting at the same time and in connection therewith, there shall be a license fee paid and bond issued to the City in accordance with Title 5, Chapter 15 of the City Code.

5-7-5 Public Property. No circus or carnival shall be conducted on any public street, park, or other public property before first having obtained approval of the City Council.

TITLE 5 BUSINESS REGULATIONS

CHAPTER 8

EXCURSION GAMBLING BOAT - ADMISSION FEE

SECTION:

5-8-1 Admission Fee

5-8-1 Admission Fee.

- (A) An admission fee of fifty cents is hereby adopted for each person embarking on an excursion gambling boat with a ticket of admission docked within the City of Muscatine.
- (B) The admission fee shall be collected by the excursion boat licensee and paid to the City Treasurer at the same time as the admission fees and wagering taxes imposed by the State of Iowa are paid to the Treasurer of the State.
- (C) The licensee shall keep its books and records so as to clearly show the total number of admissions to gambling excursions conducted by the licensee on each day, including the number of admissions on free passes or complimentary tickets and the amount received daily from admission fees.
- (D) Within ninety days after the end of each month and the end of the licensee's fiscal year, the licensee shall transmit an audit of the admissions and admission fee collected to the City Treasurer. All audits shall be conducted by certified public accountants registered or licensed by the State of Iowa under Chapter 116 of the Code of Iowa.

TITLE 5 BUSINESS REGULATIONS

CHAPTER 9

GAS FRANCHISE

SECTIONS:

- 5-9-1 Grant of Franchise
- 5-9-2 Construction of Distribution System
- 5-9-3 Restoration of Public Places
- 5-9-4 Furnishing of Service
- 5-9-5 Non-exclusive
- 5-9-6 Term of Franchise
- 5-9-7 Publication and Election
- 5-9-8 Acceptance
- 5-9-9 Special Election to Grant Franchise

5-9-1 Grant of Franchise. There is hereby granted to IES UTILITIES INC., hereinafter referred to as the "Company," its successors and assigns, the right, franchise and privilege for the term of twenty-five (25) years from and after the passage, adoption, approval and acceptance of the Ordinance, to lay down, maintain and operate the necessary pipes, mains and other conductors and appliances in, along and under the streets, avenues, alleys and public places in the City of Muscatine, Muscatine County, Iowa as now or hereafter constituted, for the purpose of distributing, supplying and selling gas to said City and the residents thereof and to persons and corporations beyond the limits thereof. The term "gas" as used in this franchise shall be construed to mean natural gas only.

5-9-2 Construction of Distribution System. The mains and pipes of the Company must be so placed as not to interfere unnecessarily with water pipes, drains, sewers and fire plugs which have been or may hereafter be placed in any street, alley and public places in said City nor unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe and other property of the City, and the Company, its successors and assigns shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the laying down, operation and maintenance of said natural gas distribution system.

5-9-3 Restoration of Public Places. In making any excavations in any street, alley, avenue or public place, Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers or signals, shall not unnecessarily obstruct the use of the streets, shall back fill all openings in such manner as to prevent settling or depressions in surface, and shall replace the surface, pavement or sidewalk of such excavations with same materials, restoring the condition as nearly as practical and if defects are caused shall repair the same.

5-9-4 Furnishing of Service. The said Company, its successors and assigns, shall throughout the term of the franchise distribute to all consumers gas of good quality and shall furnish uninterrupted service, except as interruptible service may be specifically contracted for with consumers; provided, however, that any prevention of service caused by fire, act of God or unavoidable event or accident shall be a breach of this condition if the Company resumes service as quickly as is reasonably practical after the happening of the act causing the interruption.

5-9-5 Non-exclusive. The franchise granted by this Ordinance shall not be exclusive.

5-9-6 Term of Franchise. The term of the franchise granted by this Ordinance and the rights granted thereunder shall continue for the period of twenty-five (25) years from and after its acceptance by the said Company, as herein provided.

5-9-7 Publication and Election. The expense of the publication of this Ordinance and the expense of the election herein called shall be paid by the Company, its successors and assigns.

5-9-8 Acceptance. The franchise granted by this Ordinance shall be conditioned upon acceptance by the Company in writing. The acceptance shall be filed with the City Clerk within ninety (90) days from Company receiving a majority of the votes cast at the election hereinafter called.

5-9-9 Special Election to Grant Franchise. BE IT FURTHER ORDAINED and it is hereby ordered that the question of granting of the franchise provided for in this Ordinance shall be submitted to a vote of the electors of the City of Muscatine, Muscatine County, Iowa, at a Special Election and that said Special Election is hereby called and ordered to be held in the City of Muscatine, Muscatine County, Iowa, on the 7th day of May, 1996, subject to the acceptance of the Company as provided in Section 8 above. Notice of said Special Election shall be given in the manner and form as required by law.

TITLE 5 BUSINESS REGULATIONS

CHAPTER 10

SALVAGE, JUNK DEALERS, AND REFUSE HAULERS

SECTIONS:

5-10-1	Purpose
5-10-2	Scope
5-10-3	License Required
5-10-4	Screening
5-10-5	Collection Vehicles License
5-10-6	Disposal
5-10-7	Violation

5-10-1 Purpose. The purpose of this Chapter is to protect the public health, safety, and welfare by regulating junk dealers, refuse and garbage haulers, and salvage dealers and to assure compliance with all applicable Ordinances of the City of Muscatine.

5-10-2 Scope. The scope of this Chapter shall encompass all land within ~~the~~ Corporate Limits of the City of Muscatine and any future land annexed thereto. The regulations of this Chapter shall apply to all person(s) who actively pursue a livelihood by collecting, salvaging, distributing, or processing any junk, refuse, or garbage as defined in Title 9, Chapter 3 and Title 10, Chapter 23 of this Code and applies to all salvage, refuse, or junk dealers, whether new or existing.

5-10-3 License Required. All junk, salvage, or refuse dealers shall apply for an annual license to operate their business. Application forms must be signed by the appropriate City Officials indicating that the salvage or junk yard complies with all applicable Ordinances and regulations for the City of Muscatine. The completed application shall then be returned to the City Clerk and an annual license fee in accordance with Title 5, Chapter 15 shall be paid. Upon receipt of the completed application and fee, the City Clerk shall issue the annual license. All annual licenses shall be renewed prior to January 1st of each calendar year or such license will become null and void.

5-10-4 Screening. All owners of salvage or junk yards shall

within one (1) year of the effective date of this Ordinance, screen

all parts of their salvage or junk yards which are visible from any public thoroughfare by plantings, fencing, or other opaque materials to a height not exceeding eight feet (8'), except natural plantings may exceed eight feet (8').

5-10-5 Collection Vehicles License. All trucks used for the business of hauling salvage, junk, refuse, or garbage shall be licensed annually by the City of Muscatine and shall pay a fee for each vehicle in accordance with Title 5, Chapter 15 of the City Code. Annual licenses shall be renewed prior to January 1st of each calendar year, and shall be retained at all times in the vehicle for which it is issued.

Prior to the issuance of a license for each vehicle, the owner must certify the following and provide proof of the same if requested by the City, and the City may inspect the vehicle if it deems necessary:

- (A) Vehicle is owned or leased by applicant.
- (B) Vehicle is properly identified with paint or decal indicating the name of the company or individual owning or operating such truck.
- (C) Vehicle has been properly inspected in accordance with the laws of Iowa to assure such vehicle is safe.
- (D) Vehicle is properly equipped with a safe and watertight compactor or dump box which is adequate and safe to transfer any salvage, refuse, garbage, or junk without spilling such upon the public streets or endanger the general safety of the public.

5-10-6 Disposal. All salvage, refuse, garbage, or junk must be disposed of in accordance with Title 9, Chapter 6 of the City Code.

5-10-7 Violation. Any owner of a salvage or junk yard or refuse or garbage collector who shall fail to license their businesses or vehicles, renew their license, or operate in violation of any other City, State, or Federal Law are guilty of a simple misdemeanor and shall be subject to a fine not to exceed one hundred dollars (\$100.00) or thirty (30) days in jail.

TITLE 5 BUSINESS REGULATIONS

CHAPTER 11

MESSAGE ESTABLISHMENTS AND TECHNICIANS

SECTIONS:

- 5-11-1 Definitions
- 5-11-2 Compliance with Chapter Required
- 5-11-3 Exemptions
- 5-11-4 Licenses for Massage Business
- 5-11-5 Denial, Suspension, or Revocation of License
- 5-11-6 Massage Technician License
- 5-11-7 Denial, Suspension, or Revocation of Massage Technician Licenses
- 5-11-8 Health Standards
- 5-11-9 Unlawful Acts

5-11-1 Definitions.

- (A) "Massage or massage service" means any method of treating the external parts of the body, consisting of rubbing, stroking, kneading, tapping, or vibrating; such treatments being performed by the hand or any other body parts, or by any mechanical or electrical instrument.
- (B) "Massage establishment" means any establishment having a fixed place of business where any person, firm, association, or corporation engages in or carries on or permits to be engaged in or carried on any of the activities mentioned in Section (A) and Section (C) of this Chapter. Any establishment engaged in or carrying on, or permitting any combination of massage and bath house shall be deemed a massage establishment.
- (C) "Public bath house" means any place, including a private club or organization, wherein any person, firm, association, corporation, or partnership engages in, conducts or carries on or permits to be engaged in, conducted, or carried on, the business of giving or furnishing Russian, Finnish, Swedish, hot air, vapor, electric cabinet, steam, mineral, sweat, sale, Japanese, sauna, fomentation, or electric baths or baths of any kind whatever, excluding ordinary tub baths where an attendant is not used or required.

- (D) "Massage technician" means any person, including a trainee, who engages in the business of performing massage services on or for other persons by use of any or all of the treatments, techniques, or methods of treatment referred to in the definition of massage or massage service.
- (E) "Massage patron" means any person who receives or pays to receive a massage or massage services from a massage technician for value.
- (F) "Applicant" means any person applying for a license to operate or conduct a massage business and in addition thereto shall include all partners in a partnership and all stockholders of a corporation where the controlling interest of the corporation is held by five (5) or less persons or legal entities.
- (G) "Accredited school" means any school which furnishes a certified statement of courses offered, including anatomy and physiology, and is accredited by the American Massage and Therapy Association, which provides for not less than 1,000 hours of instruction and which shall furnish a certificate or diploma of successful completion of such course of study or learning.
- (H) "Licensee" means the operator of a massage establishment.

5-11-2 Compliance with Chapter Required. No person, firm, or corporation shall operate, own, conduct, carry on, or permit to be operated, owned, conducted, or carried on any massage establishment of any type or kind including, but not limited to massage parlor, massage service business, or any massage business or service offered in conjunction with or as part of any health club, health spa, resort, health resort, gymnasium, athletic club, or other business, without compliance with the provisions of this Chapter. No person shall perform the services, duties, or work of a massage technician except in compliance with the provisions of this Chapter.

5-11-3 Exemptions. The following persons and institutions are excluded from the operation of this Chapter:

- (A) Persons licensed by the State of Iowa under the provisions of Chapters 148, 148A, 148B, 148C, 148D, 149, 150, 150A, 151, 152, 152A, 152B, 152C, 153, 157, or 158 of the Iowa Code, when performing massage therapy or massage services as part of the profession or trade for which licensed.

- (B) Persons performing massage therapy or massage services under the direct supervision of a person licensed as described in paragraph (A) hereinabove.
- (C) Persons performing massage therapy or massage services upon a person pursuant to the written instruction or order of a licensed physician.
- (D) Nurses' aides, technicians, and attendants at any hospital or health care facility, licensed pursuant to Chapters 135B, 135C, or 145A of the Iowa Code, in the course of their employment and under the supervision of the administrator thereof or of a person licensed as described in paragraph (A) hereinabove.
- (E) An athletic coach or trainer in any accredited public or private school, junior college, college, or university, or employed by a professional or semi-professional athletic team or organization in the course of his employment as such coach or trainer.
- (F) Non-profit corporations or associations.

5-11-4 Licenses for Massage Business.

- (A) No person, firm, or corporation shall operate, own, conduct, carry on, or permit to be operated, owned, conducted, or carried on any massage business in the City unless the premises at which such business is located meet the minimum standards set forth in this Chapter and unless a license to operate a massage establishment is obtained from the City in compliance with the provisions of this Chapter and Title 5, Chapter 15 of the City Code.
- (B) Application Procedures. Any person, firm, or corporation seeking a license to operate a massage establishment shall make an application for a massage establishment license and shall refer the application to the Building Inspection Department, the Fire Department, and the Public Health Department, which shall inspect the premises proposed to be operated as a massage establishment and shall make written recommendations to the City Clerk concerning compliance with the codes that they administer. The Clerk shall also refer the application to the Police Department.
- (C) Application Contents. The application shall contain the following:
 1. The full name, address, and social security number of the applicant.

2. The full name of the business and the address of the premises for which the application is being made.
 3. The criminal record of the applicant, if any.
 4. Written proof that the applicant is at least 18 years of age.
 5. The type 'of business entity, such as sole proprietorship, partnership, or corporation and, in the case of a corporation, the names and addresses of all officers and directors of the corporation.
 6. Applicants must furnish a diploma or certificate of graduation from an accredited school or other institution of learning wherein the method, profession, and work of massage is taught, provided; however, that if the applicant will have no physical contact with his customer or clients, he need not possess such diploma or certificate of graduation from a recognized school or other institution of learning wherein the method, profession, and work of massage is taught.
 7. All information required herein of any applicant shall also be provided for every person who, directly or indirectly, has any right to participate in the management or control of the business to be conducted at the premises of the proposed massage establishment.
 8. The name and address of the owner of the building where such massage business will be located.
 9. Certified copies of any lease or rental agreement governing the applicant's rights in said building.
 10. The signature of the applicant or applicants or, if the application is in the name of a corporation, the signature of each officer of the corporation.
- (D) License Fees. A nonrefundable fee shall be charged for massage establishment licenses in accordance with Title 5, Chapter 15 of the City Code.
- (E) Issuance of License. The building, fire, health, and police departments shall make written reports of their investigations and shall submit such reports to the City Clerk within forty-five (45) days of the date of the application. The City Clerk shall issue a license if all requirements for a massage establishment described in this Chapter are met and shall

issue a license to all persons who apply to perform massage services unless he finds:

1. That the operator as proposed by the applicant, if permitted, would not have complied with all applicable laws, including, but not limited to, the Building, City Zoning, Housing, and Fire Codes of the City of Muscatine or regulations adopted by the Health Department.
2. That the applicant and any other person who will be directly engaged in the management and operation of a massage establishment has been convicted of any of the following offenses or convicted of an offense outside of the State of Iowa that would have constituted any of the following offenses if committed within the State of Iowa:
 - (a) An offense involving the use of force and violence upon the person of another that amounts to a felony.
 - (b) An offense involving sexual misconduct with children.
 - (c) An offense as defined in Chapters 698, 699, 704, 705, and 724 of the 1977 Code of Iowa.

The City Clerk shall issue a permit to any person convicted of any of the crimes described in section (E)2 of this Section if he finds that such conviction occurred at least five (5) years prior to the date of the application and the applicant has had no subsequent felony convictions of any nature and no subsequent misdemeanor convictions for crimes mentioned in this Section.

In the event that the City Clerk determines that the applicant has not fully complied with all the requirements of this Chapter, then the City Clerk shall, after consultation with the Legal Department, advise the City Council of the basis for questioning the applicant's qualifications, and the procedures for notice and hearing as set forth in Section 5-11-5(B) of this Chapter shall apply before the license shall be issued.

- (F) Separate License for each Place of Business. Each massage business shall have a separate license for each place of business, which shall be valid only for the business conducted at that location.
- (G) License to be Displayed. Each massage business shall display its license conspicuously in the lobby or waiting room area

where such license may be readily observed by all persons entering such premise.

- (H) Sale or Transfer. No massage establishment license shall be sold or transferred. The purchase or purchases of any massage business or of the majority of the stock of any corporation operating a massage business shall obtain a new license before operating such business at the location for which the license has been issued.

5-11-5 Denial, Suspension, or Revocation of License.

- (A) Grounds. The massage establishment license of any such applicant or licensee may be denied, suspended, or revoked for violation of the provisions of this Chapter; for failure to comply with applicable fire regulations, building regulations, or health ordinances; for permitting massage technicians, who are either employed by the licensee or who are allowed by the licensee to perform the services or work of a massage technician upon the premises of the licensee, to violate the provisions of this Chapter; or if it is found that the applicant has falsified an application.
- (B) In the event the City Clerk is appraised of information indicating that grounds for denial, suspension, or revocation of a massage establishment may exist, he or she shall cause an investigation of such grounds to be made by the appropriate city department or departments, and after consultation with the Legal Department, shall advise the City Council in writing of the results of the investigation. If the City Council determines that the report reveals the probable existence of grounds for suspension or revocation, it shall direct written notice by ordinary mail to the licensee named on the application at the massage establishment address informing such person of the intention to hold a public hearing on the question of whether such license should be denied, suspended, or revoked, the grounds therefor, and the date and time of said hearing. Upon said hearing, if the City Council shall determine that such cause does exist,
1. If the determination is the first such for that licensee, it may withhold action on an application for one month from the date of hearing or suspend an existing license for up to one month, and thereupon such licensee shall cease massage business at that location or at any other location for the period of suspension.

2. If the determination is the second such for that licensee or if the City Council finds against the applicant or

licensee on two or more grounds at such hearing, it may deny an application or revoke an existing license at that location, and in either event, no massage establishment license shall issue nor shall such business be conducted at that location for a period of one year, nor shall the licensee be permitted to conduct such business in the City for that period.

5-11-6 Massage Technician License.

- (A) License Required. No person shall perform the services, duties, or work of a massage technician without first receiving a massage technician license from the City Clerk. Such license shall not be required for the owner of a licensed massage establishment who performs the services, duties, or work of a massage technician in his or her own establishment, provided such person provides the information required in subsections (C)5 and (C)7 hereof on the application for massage establishment license and states that such owner will be a massage technician at such establishment.
- (B) Application Procedures. Any person seeking a massage technician license shall apply to the City Clerk. The City Clerk shall cause an investigation of such applicant by the Police Department to determine if such person has a criminal record.
- (C) Application Contents. The application shall contain the following information:
1. The full name, address, age, and social security number of the applicant.
 2. The criminal record of the applicant, if any.
 3. Written proof that the applicant is at least eighteen (18) years of age.
 4. The name of a licensed massage establishment where the applicant will be employed.
 5. The name and address of the accredited school attended, the date attended, and a copy of the diploma or certificate of graduation awarded indicating the applicant has completed not less than 1,000 hours of instruction.
 6. A statement that the contents of the application

are true.

7. A certificate issued by a licensed physician stating that the applicant is free from communicable diseases and venereal diseases, such as syphilis and gonorrhea, executed within one week preceding the date of the application.

(D) Issuance of the License. The Police Department shall make a written report of its investigation to the City Clerk within thirty (30) days of the date of the application. The City Clerk shall, upon presentation of the certificate described in subsection (C)7 hereinabove, issue a temporary massage technician permit to the applicant if the application is otherwise proper and pending receipt of the written police report. Upon receipt of the police report and the certificate, the City Clerk shall approve the application if the applicant has fully complied with all the requirements of this Chapter, and the City Clerk shall thereupon issue a permanent massage technician license to the applicant. The permanent license shall expire one year from the date of issuance. In the event that the City Clerk determines that the applicant for a new or renewal license has not fully complied with all of the requirements of this Chapter, or has falsified his or her application or has been convicted of any of the following:

1. An offense involving the use of force and violence on the person of another that amounts to a felony.
2. An offense involving sexual misconduct with children.
3. An offense as defined under Chapters 698, 699, 704, 705, and 724 of the 1977 Code of Iowa; provided, however, that the City Clerk may issue a permit to any person convicted of any crimes described in subsection (D)1, (D)2, or (D)3 of this Section if he finds that such conviction occurred at least five (5) years prior to the date of the application and the applicant has had no subsequent felony convictions of any nature and no subsequent misdemeanor convictions for crimes mentioned in this Section.

Then the City Clerk shall, after consultation with the Legal Department, advise the City Council of the basis for questioning the applicant's qualifications, and the procedures for notice and hearing as set forth in Section 5-11-7(B) of this Chapter shall apply before the permanent license shall issue.

(E) License Valid Only for Establishment Listed on the Application.
The massage technician license, when issued, shall be valid

only for the massage establishment listed on the application. A massage technician changing place of employment shall have his or her license amended by the permit clerk to show that the establishment proposing such employment holds a valid massage establishment license before commencing work for the new employer.

- (F) License to be Kept at Place of Employment. All massage technicians having licenses issued pursuant to this Chapter shall keep said licenses at their place of employment as massage technicians.
- (G) License Fees. The license fee for a massage technician license shall be in accordance with Title 5, Chapter 15 of the City Code.

5-11-7 Denial, Suspension, or Revocation of Massage Technician Licenses.

- (A) Grounds for Denial, Suspension, or Revocation. A massage technician license may be denied, suspended, or revoked for any violation of this Chapter, including but not limited to the failure to comply with new or renewal procedures, a finding of criminal offenses, or falsification of new or renewal applications.
- (B) Denial, Suspension, or Revocation Proceedings. The City Clerk shall, upon receipt of information alleging that grounds exist to deny, suspend, or revoke the massage technician license of any applicant or licensee under this subchapter and after consultation with the Legal Department, report the circumstances to the City Council, which in such case shall cause a notice to be sent by ordinary mail to the applicant or licensee, which notice shall state that a denial, suspension, or revocation hearing has been set before the City Council; the grounds for the proposed denial, suspension, or revocation; the date and time of the hearing; and the place where the hearing will be conducted. Upon such hearing, if the City Council shall determine that one or more of such grounds do exist, it may deny an application or suspend or revoke an existing license. In the event such license is revoked, no massage technician license shall issue to that licensee for a period of one year.

5-11-8 Health Standards.

- (A) No massage establishment shall be established, maintained, or operated in the City that does not conform or comply with the following standards:

1. Each room or enclosure where massage services are performed on patrons shall be provided with a minimum of eight foot (8') candles as measured four feet (4') above the floor.
2. The premises shall have adequate equipment for disinfecting and cleaning non-disposable instruments and materials used in administering massage services. Such material's and instruments shall be cleaned after each use.
3. Hot and cold running water shall be provided at all times.
4. Closed cabinets shall be provided and used for the storage of all equipment, supplies, and clean linens. All used disposable materials and soiled linens and towels shall be kept in covered containers or cabinets, which containers or cabinets shall be kept separate from clean storage cabinets.
5. Clean linen and towels shall be provided for each massage patron. No common use of towels or linens shall be permitted.
6. All massage tables, bathtubs, shower stalls, sauna baths, steam or bath areas, and all floors shall have surfaces which may be readily cleaned.
7. Oils, creams, lotions, or other preparations used in administering massages shall be kept in clean containers or cabinets.
8. Adequate bathing, dressing, locker, and toilet facilities shall be provided for all patrons served at any given time. In the event male and female patrons are to be served simultaneously, separate bathing, dressing, locker, toilet, and massage room facilities shall be provided.
9. All walls, ceilings, floors, pools, showers, bathtubs, steam rooms, and all other physical facilities shall be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, steam or vapor cabinets, shower compartments, and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs shall be thoroughly cleaned after each use.
10. Each massage technician shall wash his or her hands in

hot running water using soap or disinfectant before and after administering a massage to each patron.

11. The premises shall be equipped with a service sink for custodial services, which sink shall be located in a janitorial room or custodial room separate from massage service rooms.
12. No person shall consume food or beverages in massage work areas.
13. Animals, except for seeing eye dogs, shall not be permitted in massage establishments.
14. All massage establishments shall continuously comply with all applicable building, fire, or health ordinances and regulations.

(B) No massage technician shall administer a massage:

1. If said massage technician believes, knows, or should know that he or she is not free of any contagious or communicable disease or infection.
2. To any massage patron exhibiting any skin fungus, skin infection, skin inflammation, or skin eruption; provided, however, that a physician duly licensed to practice in the State of Iowa may certify that such person may be safely massaged prescribing the condition therefor.
3. To any person who is not free of communicable disease or infection or whom the massage technician believes or has reason to believe is not free of communicable disease or infection.

5-11-9 Unlawful Acts.

- (A) It shall be unlawful for any person in a massage establishment to place his or her hand or hands upon, to touch with any part of his or her body, to fondle in any manner, or to massage a sexual or genital part of any other person.
- (B) It shall be unlawful for any massage technician, while in the presence of any other person in a massage establishment, to fail to conceal with a fully opaque covering the sexual or genital parts of his or her body.
- (C) It shall be unlawful for massages to be administered to massage

patrons of different sexes in the same room or enclosure at the same time.

- (D) It shall be unlawful for any person owning, operating, or managing a massage establishment knowingly to cause, allow, or permit in or about such massage establishments any agent, employee, or any other person under his control to perform such acts prohibited in subsections (A), (B), (C), and (D) of this Section.
- (E) For the purposes of this Section, the following words shall have the meaning assigned below:
 - "Sexual or genital parts" shall include the genitals, pubic area, buttocks, anus, or perineum of any person, or the vulva or breasts of a female.
- (F) Every person owning, operating, or managing a massage establishment shall post a copy of this Section in a conspicuous place in the massage establishment so that it may be readily seen by persons entering the premises.

TITLE 5 BUSINESS REGULATIONS

CHAPTER 12

PARADES

SECTIONS:

- 5-12-1 Permit
- 5-12-2 Conditions of Permit
- 5-12-3 Unauthorized Entry into Parades
- 5-12-4 Insurance

5-12-1 Permit. No parade or procession, other than a funeral procession, except the armed forces of the United States, the military forces of the State of Iowa, and the forces of the Police and Fire Departments, shall occupy, march, or proceed along any street, except in accordance with a permit issued in accordance with Title 5, Chapter 15 of the City Code.

5-12-2 Conditions of Permit. The permit required in Section 5-12-1 of this Chapter shall be issued only upon the approval of the Chief of Police and shall state the route to be followed and shall be subject to any conditions which the Chief of Police deems necessary to protect the safety of persons and property.

5-12-3 Unauthorized Entry into Parades. No person shall enter or become a part of any parade or procession without express permission of the permittee.

5-12-4 Insurance. Before a permit can be issued, the individual or organization requesting the parade permit must provide a certificate of insurance in accordance with Title 5, Chapter 15 of the City Code.

TITLE 5 BUSINESS REGULATIONS

CHAPTER 13

PAWNBROKERS

SECTIONS:

5-13-1	License Required
5-13-2	License Fees
5-13-3	License; Expiration Date
5-13-4	Bond
5-13-5	Transfer of License
5-13-6	Dealing with Minors
5-13-7	Books to be Kept
5-13-8	Inspection of Books
5-13-9	Memorandum Required
5-13-10	Sales by Pawnbrokers

5-13-1 License Required. No person shall carry on business as a pawnbroker, who shall not have first procured a license therefor in accordance with Title 5, Chapter 15 of the City Code and complied with the requirements of this Chapter.

5-13-2 License Fees. The fee for a pawnbroker's license as required by the preceding Section shall be paid in accordance with Title 5, Chapter 15 of the City Code.

5-13-3 License; Expiration Date. The license required by Section 5-13-1 of this Code, obtained from the City, shall expire on December thirty-first (31) after its issuance.

5-13-4 Bond. Every person applying for a license as a pawnbroker shall, at the time of receiving the same, execute a bond to the City in accordance with Title 5, Chapter 15 of the City Code. Any person aggrieved by the acts of any pawnbroker may sue upon such bond and recover such damages as he shows himself entitled to.

5-13-5 Transfer of License. No license as required by Section 5-13-1 of this Code shall be assignable or transferable.

5-13-6 Dealing with Minors. No pawnbroker shall purchase or receive in pawn any article or property from a minor without

the written consent of his parents or guardian.

5-13-7 Books to be Kept. Every pawnbroker shall keep a book in which shall be fairly written, at the time of such loan or purchase, an accurate account and description of the goods, articles, or things pawned or bought; the amount of money loaned thereon or paid therefor; the time of pledging or buying the same; the name of the person pawning or selling the goods, articles or things; and if pledged, the rate of interest to be paid on such loan and the time when the loan becomes payable.

5-13-8 Inspection of Books. The books of any pawnbroker, required to be kept by the preceding Section, shall, at all reasonable times be open to the inspection of the Chief of Police, to any person who shall be duly authorized in writing for that purpose, or by either of them.

5-13-9 Memorandum Required. Every pawnbroker shall, at the time of each loan or purchase, deliver to the person pawning any article of goods a memorandum or note signed by him, containing the substance of the entry required to be made in his notebook. No charge shall be made for such entry, memorandum, or note.

5-13-10 Sales by Pawnbrokers. No pawnbroker shall sell any pawn or pledge until the same shall have remained two (2) months in his possession after the payment of the amount loaned becomes due.

TITLE 5 BUSINESS REGULATIONS

CHAPTER 14

PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS

SECTIONS:

5-14-1	Definitions
5-14-2	License and Fee Required
5-14-3	Religious and Charitable Organizations Exempt
5-14-4	Application for License
5-14-5	Issuance of License
5-14-6	Bond Required
5-14-7	Display of License
5-14-8	License Not Transferable
5-14-9	Revocation of License
5-14-10	Expiration of License
5-14-11	Penalty
5-14-12	Local Resident Businesses

5-14-1 Definitions. For use in this Ordinance, the following terms are defined:

- (A) "Peddler" shall mean any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house-to-house or upon public streets or public property. Peddlers shall include itinerant merchants who conduct sales on private property, with permission of the owner, such as meat, fish, and plant peddlers.
- (B) "Solicitor" shall mean any person who solicits or attempts to solicit from house-to-house or upon the public street an order for goods, subscriptions, or merchandise to be delivered at a future date.
- (C) "Transient merchant" shall mean any person, firm, or corporation who engages in a temporary, two (2) month's or less, itinerant merchandising business and in the course of such business hires, leases, or occupies any building or structure whatsoever. Temporary association with a local merchant, dealer, trader, or auctioneer, or conduct of such transient business local merchant, dealer, trader, or auctioneer shall not exempt any person, firm, or corporation from being considered a transient merchant.

5-14-2 License and Fee Required. Any person engaging in peddling, soliciting, or in the business of a transient merchant in the City shall first obtain a license and pay a fee in accordance with Title 5, Chapter 15 of the City Code.

5-14-3 Religious, Charitable, and Non-Profit Organizations Exempt. Authorized representatives of religious, charitable and non-profit organizations desiring to solicit money or to distribute literature shall be required to submit in writing to the City Clerk the name and purpose of the cause for which such activities are sought; names and addresses of the officers and directors of the organization; the period during which such activities are to be carried on; and whether any commissions, fees, or wages are to be charged by the solicitor for his efforts and the amount thereof.

If the City Clerk shall find that the organization is a bona fide religious, charitable, or non-profit organization, he shall issue, free of charge, a license containing the above information to the applicant.

5-14-4 Application for License. An application in writing shall be filed with the City Clerk for a license under this Ordinance. Such application shall set forth the applicant's name, permanent and local address, business address, if any, physical description, and if required by the City Clerk, a recent photograph and right thumb print. The application also shall set forth the applicant's employer, if any, and the employer's address, the nature of the applicant's business, the last three (3) places of such business, and the length of time sought to be covered by the license. Any individual involved in peddling anything to be used as food shall submit to the City Clerk, for examination, a medical certificate to the effect that the holder is free from all communicable disease and infectious disease in communicable form and is not a carrier of any such disease before a license can be issued.

A company may apply for a license under this Chapter, provided the information required above for each individual employee is included in the application.

5-14-5 Issuance of License. If the City Clerk finds the application is made out in conformance with Section 5-14-4 of this Ordinance and the facts stated therein are correct, he shall issue, upon posting of bond as required by section 5-14-6 of this Ordinance, a license and charge a fee therefor as determined by Title 5, Chapter 15 of the City Code.

5-14-6 Bond Required. Before a license under this Ordinance shall be issued, each applicant shall post a bond with the City in accordance with the provisions of Title 5, Chapter 15 of the City Code.

5-14-7 Display of License. Each solicitor or peddler shall at all times while doing business in this City keep in his possession the license provided for in this Ordinance, and shall, upon the request of prospective customers, exhibit the license as evidence that he has complied with all requirements of this Ordinance. Each transient merchant shall display publicly his license in his place of business.

5-14-8 License not Transferable. Licenses issued under the provisions of this Ordinance are not transferable in any situation and are to be applicable only to the person filing the application.

5-14-9 Revocation of License. The City Council may revoke any license issued under this Ordinance where the licensee in the application for the license or in the course of conducting his business has made fraudulent or incorrect statements, has violated this Ordinance, or has otherwise conducted his business in an unlawful manner.

5-14-10 Expiration of License. All licenses granted under this Ordinance shall expire at twelve o'clock (12:00) midnight of the last day for which the license is issued.

5-14-11 Penalty. Anyone violating any of the provisions of this Ordinance shall, upon conviction, be subject to imprisonment not exceeding thirty (30) days, or a fine not exceeding one hundred dollars (\$100.00). Each day that a violation continues to exist shall constitute a separate offense.

5-14-12 Local Resident Businesses. Local resident businesses which would otherwise be subject to the provisions of this chapter shall apply for the license as required provided that if the City Clerk finds that the applicant is a bona fide local resident business, the City Clerk may issue the license. Local resident businesses shall pay an annual fee of \$20.00, furnish a certificate of insurance with the City named as an additional insured if sales are to take place on city property and shall be exempt from furnishing a bond as required by this chapter. The application shall also contain a description of the area(s) where the sales are to take place which is subject to the approval of the City. Approval for the area(s) where the sales are to take place will be granted or denied within one working day after submission of the application. All other rules and regulations pertaining to the type of business to be conducted shall be met by the applicant.

TITLE 5 BUSINESS REGULATIONS

CHAPTER 15

PERMITS, LICENSES, BONDS FEES

SECTIONS:

5-15-1	Purpose
5-15-2	Schedule

5-15-1 Purpose. The purpose of this Chapter is to consolidate into one Chapter all permits and licenses required in the various Chapters of the City Code for easy reference. It is further the purpose of this Chapter to establish the schedule of fees, and when required, bonds and insurance limits for all licenses and permits.

5-15-2 Schedule. No license or permit shall be issued to any person under this Code until such person has paid to the City Clerk or other officer specified in this Code the fee required by this Chapter, or has qualified as being within one or more exceptions to such requirements as set forth in this Code; and no license or permit shall be issued to any person under any provision of this Code, until such person shall have filed with the City Clerk the bond therefore and evidence of insurance, if any be required, in the amount set forth in the attached schedule. The fee for a permit, license, filing or bond required by this Chapter may be changed or modified by resolution adopted by the City Council.

Permits(P)/ License(L)	Code Section	Location	Each	Daily	Weekly	Fees Monthly	Annually	Bond	Insurance
Carnivals (P)	5-7-3	Clerk	\$220					\$5,000	GL 1,000,000 B.I. 100,000 P.D. (1,000,000 CSL) Auto 250,000/500,000 B.I. 100,000 P.D. (500,000 CSL) WC Statutory
Cigarettes (L)	5-6-2	Clerk	As Per State Code					None	None
Circus (L)	5-7-1	Clerk	\$220			(Non-Profit Sponsor \$110)		\$5,000	GL 1,000,000 B.I. 100,000 P.D. (1,000,000 CSL) Auto 250,000/500,000 B.I. 100,000 P.D. (500,000 CSL) WC Statutory
Conditional Use	10-21-1	Bldg Dept	\$100					None	None
Curb Cuts	3-3-19	Bldg Dept	\$10					\$5,000	GL 100,000 B.I. \$25,000 P.D. (100,000 CSL)
Dancing	5-3-6	Clerk					\$30	None	None
Electrical (P)	8-3-6	Bldg Dept	Use Schedule I(B)					None	None
Electrician, General (L)	8-3-9	Bldg Dept						\$50 (Examination) \$50 (Initial) \$100 (Annual)	GL 500,000

Permits(P)/ License(L)	Code Section	Location	Each	Daily	Weekly	Fees Monthly	Annually	Bond	Insurance
Electrician, Residential (L)	Restricted 8-3-9	Bldg Dept					\$50 (Examination) \$30 (Initial) \$80 (Annual)		GL 200,000
Electrical, Certificate of Competency	8-3-9	Bldg Dept					\$25 (Examination) \$15 (Initial) \$40 (Annual)		None
Excavation	3-3-3	Bldg Dept	\$10					\$5,000	GL 100,000 B.I. 25,000 P.D. (100,000 CSL)
Food Vending Machine (L)	9-1-4	Health Officer	As Per State Code					None	None
Food Establishments (L)	9-1-4	Health Officer	As Per State Code					None	None
Gaming Tables (L)	5-5-1	Clerk					\$17	None	None
Garbage Haulers (L)	5-10-3 & 5	Clerk					\$50 \$10/Truck	\$5,000	GL 100,000 B.I. 25,000 P.D. (100,000 CSL) Auto 250,000/ 500,000 B.I. 50,000 P.D. (500,000CSL) WC Statutory
Hotels (L)	9-1-4	Health Officer	As Per State Code					None	None
Housing Rental (P)	8-5-4	Bldg Dept					\$ 15 1st Inspection \$20 Call Back	None	None
Juke Boxes (L)	5/1/2001	Clerk					\$25	None	None

Permits(P)/ License(L)	Code Section	Location	Each	Daily	Weekly	Fees Monthly	Annually	Bond	Insurance
Junk Dealers (L)	5-10-3 & 5	Bldg Dept					\$50 \$10/truck	\$5,000	GL 100,000 B.I. 25,000 P.D. (100,000 CSL) Auto 250,000/ 500,000 B.I. 50,000 P.D. WC Statutory
Levee Use or Imp. (P)	3-4-1	Bldg Dept	Depends on Use						Depends on Use
Liquor (L)	5-3-6	Clerk	As Per State Code						As Per State Code
Massage Establishments (L)	5-11-4	Clerk					\$100 (3 Rooms or Less) \$150 (3 Rooms or More)	None	
Message Technician (L)	5-11-6						\$25		None
Mechanical (P)	8-7-4	Bldg Dept	Use Schedule I(C)					None	None
Motels (L)	9-1-4	Health Officer	As Per State Code					None	None
Parades (P)	5-12-1	Clerk	\$30 (Non-Profit Exempt)					None	GL 500,000 B.I. 50,000 P.D. (500,000 CSL)
Parks (Special Use) (P)	3-6-7	Parks Dept	Depends on Use						Depends on Use
Pawnbroker (L)	5-13-1	Clerk					\$55	None	None
Peddlers (L)	5-14-2	Clerk		\$15	\$30	\$40	\$110	\$1,000	None
Percolation Test	4-6-3	Bldg Dept	\$65					None	None
Pinball Machines (L)	5-1-1	Clerk					\$30	None	None
Plumbing (P)	8-9-4	Bldg Dept	Use Schedule I(D)					None	None

Permits(P)/ License(L)	Code Section	Location	Each	Daily	Weekly	Fees Monthly	Annually	Bond	Insurance
Plumbing (L)	8-9-5	Bldg Dept					\$25	\$10,000	GL 100,000 B.I. 25,000 P.D. (100,000 CSL)
Pocket Billiards	5-1-1	Clerk					\$15	None	None
Refuse Collector (L)	5-10-3 & 5 9-3-10(D)	Clerk					\$50 \$10/truck	\$5,000	GL 100,000 B.I. 25,000 P.D. (100,000 CSL) Auto 250,000/ 500,000 B.I. 50,000 P.D. (500,000 CSL) WC Statutory
Restaurant (L)	9-1-4	Health Officer	As Per State Code					None	None
Rezoning Request	10-22-7(B)	Bldg Dept	\$100					None	None
Roller Skating Rink (L)	5-1-1	Clerk					\$110	None	None
Salvage Dealers (L)	5-10-3 & 5	Clerk					\$50 \$10/truck	\$5,000	GL 100,000 B.I. 25,000 P.D. (100,000 CSL) Auto 250,000/ 500,000 B.I. 50,000 P.D. (500,000 CSL) WC Statutory
Septic Tank (P)	4-6-3	Bldg Dept	\$25					None	None
Sewer Repair-Tap (L)	4-6-2	Bldg Dept	\$25					None	None
Shooting Gallery (L)	5-1-1	Clerk					\$110	None	None

Permits(P)/ License(L)	Code Section	Location	Each	Daily	Weekly	Fees Monthly	Annually	Bond	Insurance
Sidewalk (New-Repair) (P)	3-7-1	Bldg Dept	None					\$5,000	GL 100,000 B.I. 25,000 P.D. (100,000 CSL) Property Owners Exempt
Sign (P)	10-19-2	Bldg Dept	\$10					None	GL 100,000 B.I. 25,000 P.D. (100,000 CSL)
Soliciting	5-14-2	Clerk	\$15	(Non-Profit Exempt)				None	None
Street Cut (P)	3-3-3	Bldg Dept	\$10					\$10,000	GL 100,000 B.I. 25,000 P.D. (100,000 CSL)
Subdivision Review	11-1-2(D)	Bldg Dept	\$100					None	None
Taxicabs	5-17-3	Clerk					\$30/veh	\$5,000	GL 100,000 B.I. 25,000 P.D. (100,000 CSL) Auto 250,000/ 500,000 B.I. 100,000
Theaters (L)	5-1-1	Clerk					\$110	None	None
Transient Merchant (L)	5-14-2	Clerk		\$15	\$30	\$40	\$110	None	None
Tree Planting, Removal or Trimming	3-11-11(C)	Parks Dept	None					\$5,000	GL 100,000 B.I. 100,000 P.D. (100,000 CSL) Auto 250,000/ 500,000 B.I. 50,000 P.D. (500,000 CSL) WC Statutory Property Owners Exempt

Permits(P)/ License(L)	Code Section	Location	Each	Daily	Weekly	Fees Monthly	Annually	Bond	Insurance
Tree Removal (L)	3-11-6	Parks Dept					\$55	\$5,000	GL 100,000 B.I. 100,000 P.D. (100,000 CSL) Auto 250,000/ 500,000 B.I. 50,000 P.D. (500,000 CSL) WC Statutory
Zoning Appeal	10-22-2(C)	Bldg Dept	\$50					None	None
Zoning Variance	10-22-2(D)	Bldg Dept	\$50					None	None

TITLE 5 BUSINESS REGULATIONS
CHAPTER 16
SALES ON CITY PROPERTY

SECTIONS:

- 5-16-1 Selling on City Property
- 5-16-2 Selling of Merchandise
- 5-16-3 Soliciting for Worthy Cause

5-16-1 Selling on City Property. No individual, company, corporation, or organization shall sell any product or service upon any city street, property, parks, or sidewalks without receiving the proper approval of the City Council.

5-16-2 Selling of Merchandise. Local merchants and organizations composed of local merchants may sell merchandise on City owned property in conjunction with special promotional events subject to the approval by the City Council. Requests to close or use streets and sidewalks shall be reviewed by the Police Chief and Fire Chief before such approval is granted.

5-16-3 Soliciting for Worthy Cause. Local civic, service, educational, health, welfare, and similarly related organizations may sell merchandise or solicit on City owned property upon approval by the City Council.

TITLE 5 BUSINESS REGULATIONS

CHAPTER 17

TAXICABS

SECTIONS:

- 5-17-1 Definition
- 5-17-2 Exemption
- 5-17-3 License and Fee
- 5-17-4 Required Insurance
- 5-17-5 Policy
- 5-17-6 Soliciting Passengers

5-17-1 Definition. Whenever the word "taxicab" is used in this Chapter, it shall mean any vehicle used for the transportation of people for hire from one place to another within the City.

5-17-2 Exemption. This Chapter shall not apply to any transportation company operating upon designated routes or between fixed terminals under an ordinance duly passed by the City.

5-17-3 License and Fee Required. No person shall engage in the business of maintaining or operating any taxicabs without first procuring from the Council a license and payment of the fee as required in Title 5, Chapter 15 of the City Code.

5-17-4 Insurance Policy. Any person operating any taxicab shall post and deposit with the Clerk an insurance policy issued by an authorized company to do business in the state, and such insurance policy shall be in accordance with Title 5, Chapter 15 of the City Code and shall be for each vehicle operated within the City. The insurance policy shall insure to the benefit of any person who shall suffer bodily injury or property damage or to his estate should he be killed by reason of negligence or misconduct on the part of the driver or operator of such vehicle.

5-17-5 Soliciting Passengers. It shall be unlawful for any person operating any taxicab to accost, stop, or approach and solicit any person to become a passenger in any such taxicab upon any street, alley, or other public place within the City.

5-17-6 Filing; Posting; Rate Schedule. Any person operating a taxicab shall file, with the application for a license, a schedule of rates to be charged for the use of such taxicab. A copy of this schedule of rates shall be posted in a conspicuous place in each taxicab. Any changes to the rate structure during the term of the license shall be submitted to the City Clerk's Office and filed with the license.

TITLE 5 BUSINESS REGULATIONS

CHAPTER 18

CABLE TELEVISION SYSTEM

SECTIONS:

5-18-1	Purpose
5-18-2	Definitions
5-18-3	Length of Franchise
5-18-4	Conditions for Initial Franchise Validation
5-18-5	Renewal
5-18-6	Transfers and Assignments
5-18-7	Franchise Territory - Service Area
5-18-8	Evidence of Financial Capability
5-18-9	Initial Geographical Coverage
5-18-10	Extension of Service
5-18-11	Television Broadcast Signals
5-18-12	Education and Governmental Access Channels
5-18-13	Public Access Channels
5-18-14	Public Access Channel Facilities
5-18-15	Leased Access Channels
5-18-16	Additional Services
5-18-17	All Channels Emergency Alert
5-18-18	Subscriber Privacy
5-18-19	Underground & Overground Installation Requirements
5-18-20	Consumer Service Standards Record of
5-18-21	Complaints by Franchisee City Role in Complaints
5-18-22	Review Sessions
5-18-23	Triennial Review Sessions
5-18-24	Topics to be Reviewed
5-18-25	Services of Consultant Permitted
5-18-26	Rate Regulation
5-18-27	Rate Adjustments
5-18-28	Switching Device
5-18-29	Disconnection
5-18-30	Termination of Service
5-18-31	Unauthorized Connections or Modifications
5-18-32	Discriminatory or Preferential Practices
5-18-33	Refunds to Subscribers and Programmers
5-18-34	Public Service Installations
5-18-35	Other Business Activities
5-18-36	Franchise Fee
5-18-37	

5-18-1

5-18-2

5-18-38 Construction and Operation Timetable
5-18-39 Right of Inspection of Construction
5-18-40 Technical Standards
5-18-41 New Developments
5-18-42 Communications with Regulatory Agencies
5-18-43 Annual Report
5-18-44 Security Fund and Performance Bond
5-18-45 Cancellation and Expiration
5-18-46 Enforcement
5-18-47 Indemnification
5-18-48 Insurance
5-18-49 Foreclosure
5-18-50 Receivership
5-18-51 Publication of Notice
5-18-52 Cost of Publication and Election
5-18-53 Transmission of Documents to City
5-18-54 Severability
5-18-55 Repealer

5-18-1 Purpose. The purpose of this Chapter is to specify requirements for the establishment, construction, operation, and maintenance of cable television in the City pursuant to Chapter 364, Code of Iowa and applicable federal law. If a new Applicant submits a proposal acceptable to the City Council, meets the requirements of this ordinance and those of the FCC, and receives a majority of the votes cast in a franchise election, the City may then proceed to enter into a non-exclusive franchise agreement with such prospective Franchisee, subject to the provisions of the Chapter. If the Incumbent Operator submits a proposal acceptable under Section 626 of the Cable Act of 1984 as amended, and meets the requirements of the FCC, the City shall proceed to fulfill its obligations under Section 626 of the Cable Act of 1984.

5-18-2 Definitions.

- (A) "Additional service" means a subscriber service not included as part of basic service provided by the Franchisee and for which a special charge is made based on program, service content, or time of usage.
- (B) "Applicant" shall mean a prospective Franchisee.
- (C) "Basic service" means any service tier which includes the retransmission of local television broadcast signals.
- (D) "Broadcast signal" means a television or radio signal emanating from an FCC licensed broadcast facility.

- (E) "Cablecasting" means transmitting a nonbroadcast signal by a Cable Television System.
- (F) "Cable Television System" or "Cable System" or "System" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include (A) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (B) a facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control, or management, unless such facility or facilities uses any public right-of-way; (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Cable Act of 1984, except that such facility shall be considered a cable system (other than for purposes of Section 621(c) of the Cable Act of 1984) to the extent such facility is used in the transmission of video programming directly to subscribers; or (D) any facilities of any electric utility used solely for operating its electric utility systems.
- (G) "Cable operator" means any person or group of persons (A) who provides cable service over a cable system or (B) who otherwise directly controls or is responsible for, through any arrangement, the management and operation of such a cable system.
- (H) "City service" means (A) the one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and (B) subscriber interaction, if any, which is required for the selection of such video programming or other programming service.
- (I) "City" shall mean the City of Muscatine, Iowa.
- (J) "Commission" shall mean the Muscatine Cable Television Advisory Commission established by Title 2, Chapter 4 of the City Code.
- (K) "Connecting existing" shall mean the connection of the cable or wire to a television or radio receiver when the house drop has previously been installed.

- (L) "Connection new" shall mean the installation of a house drop and the connection of the cable or wire to a television or radio receiver.
- (M) "Converter" means an electronic device which converts signal carriers from one frequency to another.
- (N) "Council" shall mean the City Council of the City of Muscatine, Iowa.
- (O) "Education Access Channel" means (A) channel capacity designated for educational use; and (B) facilities and equipment for the use of such channel capacity.
- (P) "FCC" shall mean the Federal Communications Commission or its successor.
- (Q) "Franchise agreement" shall mean the contract entered into between the City and a Franchisee.
- (R) "Franchisee" shall mean any person, firm, corporation, or other entity granted a franchise in accordance with the provisions of this Chapter and applicable federal law.
- (S) "Franchising Authority" means the City of Muscatine, Iowa, or the lawful successor, transferee, or assignee thereof.
- (T) "Gross Annual Revenues" means any revenue derived directly by a Franchisee, from or in connection with the operation of a Muscatine cable system including, but not limited to, basic subscriber service fees, pay channel service fees, installation and reconnection fees, leased channel fees, converter and remote control rentals, studio rentals, production equipment rentals and local advertising revenues. The term does not include any taxes on services provided by a Franchisee and imposed directly upon any subscriber or user by the state, City or other governmental unit and collected by a Franchisee on behalf of said unit.
- (U) "Headend" shall mean the land, electronic processing equipment, antennas, tower, building, and other appurtenances normally associated with and located at the starting point of a broad-band telecommunications network.

- (V) "House drop" means a cable that connects each building or home to the nearest feeder line of the cable network.
- (W) "Incumbent Operator" shall mean Cablevision VII Inc., dba TCI of Eastern Iowa, owning entity of the Muscatine franchise.
- (X) "Leased access channel" means any channel or portion thereof available for lease, on a first-come, first-served basis, including those portions of the other access channels not in use by their designated programmers.
- (Y) "Local government access channel" means (A) channel capacity designated for governmental use; and (B) facilities and equipment for the use of such channel capacity.
- (Z) "Local origination channel" means any channel where the Franchisee is the designated programmer.
- (AA) "Normal Business Hours" as applied to the Franchisee shall mean those hours during which similar businesses in the Village are open to serve customers. In all cases, Normal Business Hours must include some evening hours at least one night per week, and/or some weekend hours.
- (BB) "Normal Operating Conditions" shall mean those service conditions which are within the control of the Franchisee. Those conditions which are not within the control of the Franchisee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the Franchisee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the Cable System.
- (CC) "Outlet" shall mean the point of connection of the cable or wire to a television or radio receiver.
- (DD) "Public access channel" means (A) channel capacity designated for public use; and (B) facilities and equipment for the use of such channel capacity.

- (EE) "Service tier" means a category of cable service or other services provided by a cable operator and for which a separate rate is charged by the cable operator.
- (FF) "Shall" and "will" are mandatory; "may" is permissive.
- (GG) "Subscriber" means any person, firm, corporation, or entity receiving reception service from the Franchisee.
- (HH) "Two-way" means subscriber interaction with the cable system.
- (II) "User" means any person, firm, corporation, or entity who or which produces or otherwise provides program material for transmission by video, audio, digital, or other signals, either live or recorded by means of the system.

5-18-3 Length of Franchise. The term of a franchise and all rights, privileges, obligations, and restrictions pertaining thereto shall be determined by Council from the effective date of such franchise or the effective date of any transfer or assignment thereof in accordance with Section 5-18-6 of this Chapter. The term of agreement will be specified in the Franchise Agreement. Such term shall not exceed 15 years. The City shall award a non-exclusive franchise to construct, erect, operate, and maintain in, upon, along, across, above, over, and under the streets, alleys, public ways, and public places now laid out or dedicated, and all extensions thereof and additions thereto in the City, poles, wires, cables, underground conduits, manholes, and other conductors and fixtures necessary for the operation and maintenance in the City of a Cable Television System, and to furnish and to sell service from such System to the inhabitants of the City pursuant to the terms of this Chapter. The City specifically reserves the right to grant a similar franchise to any person, firm, corporation or municipal enterprise at any time.

5-18-4 Conditions for Initial Franchise Validation.

- (A) The Applicant shall abide by all provisions of this Chapter and all other applicable City ordinances. The Applicant shall not claim, as against the City, that the provisions of this Chapter are unreasonable, arbitrary, or void.
- (B) Within twenty (20) days after approval of the voters at a franchise election and approval of the City Council of a franchise proposal, the Applicant and the City may then proceed to execute a franchise agreement.

- (C) Within ninety (90) days after execution of the franchise agreement, the Applicant shall file with the appropriate authorities all papers and applications necessary to comply with the terms of this Chapter and the franchise agreement, and shall diligently pursue all such applications.
- (D) Failure of the Applicant to comply with the provisions of this section shall be grounds for immediate revocation of any rights the Applicant may have in the franchise and forfeiture of the Applicant's security fund and performance bond.

5-18-5 Renewal. A franchise granted under this Chapter may be renewed by the Council upon application of the Franchisee pursuant to Section 626 of the Cable Act of 1984, as amended.

5-18-6 Transfers and Assignments.

- (A) The Franchisee's right, title, or interest in the Franchise shall not be sold, transferred, assigned, or otherwise encumbered, other than to an entity controlling, controlled by, or under common control with the Franchisee, without the prior consent of the Franchising Authority, such consent not to be unreasonably withheld. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Franchisee in the Franchise or System in order to secure indebtedness. Within 30 days of receiving the request for transfer, the Franchising Authority shall, in accordance with FCC rules and regulations, notify the Franchisee in writing of the information it requires to determine the legal, financial and technical qualifications of the transferee.
- (B) It shall be a violation of the franchise for any individual or group of individuals acting in concert to formally or informally authorize any other individual or group of individuals to act as their nominee or to mislead the Council in any way in regard to the sale, transfer, or disposition of interest in or control of the Franchisee.
- (C) The restrictions of this section shall be effective immediately upon execution of the franchise agreement.

5-18-7 Franchise Territory - Service Area. The franchise territory, also known as the service area, shall include the entire present territorial limits of the City and any area annexed thereto during the term of the franchise.

5-18-8 Evidence of Financial Capability. The evidence of financial soundness and capability required in the initial applicant's proposal shall be such as may be reasonably necessary to assure the City that the entire system will be completed within the time specified by Section 38 of this Chapter.

5-18-9 Geographical Coverage. The Franchisee shall provide a cable communication system in such manner as to pass and provide adequate tap off facilities for every single family dwelling unit, multiple dwelling unit or other residential unit in the City. Franchisee shall also pass and provide adequate tap off facilities for every commercial establishment within 1/4 mile of existing distribution system in the City.

5-18-10 Extension of Service. The Franchisee shall, at its expense, within one year of annexation, extend its system to have service available to all residents of:

- (A) Newly annexed areas to the City where the average density is at least thirty (30) dwelling units per lineal mile of proposed trunk and feeder cable route.
- (B) New housing areas developed within the City limits.
- (C) Any new single family dwelling unit, multiple dwelling unit or other residential unit or commercial establishment within 1/4 mile of existing distribution system in the City shall be extended cable simultaneously with electric power and telephone utilities.

5-18-11 Television Broadcast Signals. The Franchisee shall provide, as part of its cable television service, the signals of all television broadcast signals consistent with the rules and regulations of the FCC and all other applicable laws, rules, or regulations. The Franchisee's system shall be designed, engineered, and maintained so as not to interfere with the television and radio reception of residents of the City who are not subscribers to the system.

A Spanish language television channel is of interest to the City, therefore Franchisees are encouraged to carry such a channel.

5-18-12 Education and Governmental Access Channels. During the term of the franchise, the Franchisee shall provide at no charge at least two additional channels: one for educational use and one to be used by the City, or its assignee, for any purpose. As both educational and municipal channel availability is of great interest to the City, applicants may indicate in their applications a greater number of channels dedicated for these purposes.

For any educational access channel, the Franchisee shall prohibit the presentation of any material designed to promote the sale of commercial products or services (including promotions by or on behalf of candidates for any elected or appointed office), lottery information, and obscene or indecent matter and permit public inspection of a record of the names and addresses of all persons or groups requesting access time. Such record shall be retained for a period of two (2) years.

5-18-13 Public Access Channels. During the term of the franchise, the Franchisee shall provide at least one (1) specially dedicated, non-commercial public access channel to be made available to the public, groups, and individuals on a first-come, non-discriminatory basis. Such channels shall be operated in accord with FCC rules and regulations. The Franchisee shall make no charge for use of such channel other than actual out-of-pocket expenses for production costs, if any, which are incurred in live studio presentations exceeding five (5) minutes. The Franchisee shall establish rules providing for access to the public channel on a first-come, non-discriminatory basis, prohibiting the presentation of any advertising material designed to promote the sale of commercial products or services (including promotions by or on behalf of any candidate for any elected or appointed office), lottery information, and obscene or indecent matter. A public record shall be kept and retained for two (2) years of the name and addresses of all persons or groups requesting access time. As the total number of access channels is of a great deal of interest to the City, applicants may propose a greater number of such channels than the minimum set forth herein in their application.

5-18-14 Public Access Channel Facilities. The Franchisee shall augment the television programming available by active promotion and assistance for locally originated programs. The Franchisee shall, for a reasonable charge, provide the necessary information to the public on the use of the access channels and shall provide, on request, assistance to any person seeking to develop the necessary skills to produce programs on the access channels. Further, the Franchisee shall cooperate with any person wishing to organize training workshops in connection with the use of access channels.

To these ends, the Franchisee must provide the necessary local studio and both portable and stationary equipment to support local origination of programs for transmission over the system. A studio within the City must be made available for all access users on a first-come, first-served basis. Equipment included must provide, at minimum, for the ability to use 1/2" video tapes and current technology available at the consumer level. Equipment shall include cameras, slide and film chain, portable cameras and recorders, a timebase corrector, and other appropriate equipment. The studio shall have the capability to originate cablecasts in color. Cost of maintenance of the studio and equipment shall be borne by the Franchisee. These program facilities and equipment are to be used by access cablecasters with the aid of a technical and production staff to be provided by the Franchisee.

Any Applicant shall demonstrate in its application how it plans to make the equipment, studio, and technical and production staff available. Applicants will be given preference in the selection process for plans that will most adequately meet these requirements. A full schedule of rates for the use of equipment, studio, and technical and production staff shall be submitted in the application or renewal of Franchise proposal.

5-18-15 Leased Access Channels. The Franchisee shall make a portion of the remaining unused channels available for lease to any organization, group, or individual on a first-come, first-served basis as provided in this Chapter. At least one (1) channel must be available for lease on a part-time basis. The Franchisee cannot exercise program controls over leased channels, but may adopt rules governing the leasing of channel space which: (a) provide for access on a first-come, non-discriminatory basis; (b) prohibit the presentation of lottery information and obscene or indecent matter; (c) require sponsorship identification; (d) specify a reasonable rate schedule; and (e) permit public inspection of the record of the names and addresses of all persons or groups requesting time, which record shall be retained for a period of at least two (2) years.

5-18-16 Additional Services. The Franchisee is encouraged to make available such additional video, audio, radio, digital, point-to-point service, and other services as are requested by subscribers and programmers who are willing to pay for such services, provided that such services are technologically and economically feasible. If no applicable rate exists when such a service is requested, the rate change procedures established in this Chapter shall apply. The Franchisee shall undertake to apply for any certificate of compliance or waiver necessary to permit the

provision of a specific additional service. Should a dispute arise over any matter regarding additional services, the dispute may be resolved in accordance with the provisions of this Chapter relating to methods of resolving disputes. Nothing in this section shall preclude the offering of such new service on a temporary or experimental basis. In addition, public governmental and educational space shall be reserved in all information services initiated by the Franchisee at the same level as in cable television service.

5-18-17 All Channels Emergency Alert. The Franchisee shall, in the case of any emergency or disaster, make its entire system available without charge to the City or to any other governmental or civil defense agency that the City shall designate. The system shall be engineered to provide an audio alert system to allow authorized officials to automatically override the audio signal on all channels and transmit and report emergency information. The system shall also have the capability for visual transmission of emergency messages.

5-18-18 Subscriber Privacy. The Franchisee shall be constantly alert to possible abuses of the right of privacy or other legal rights of any subscriber, programmer, or general citizen resulting from any device or signal associated with the cable communications system. The possibility of such abuse shall be discussed at every scheduled review session.

The Franchisee shall abide by current Federal law and FCC regulations regarding protection of subscriber privacy.

No cable, line, wire, amplifier, converter, or other piece of equipment owned by the Franchisee shall be installed by the Franchisee within private easements without first securing the written permission of the owner, leasee, or tenant of any property involved.

5-18-19 Underground and Overground Installation Requirements.

- (A) The Franchisee may lease, rent, or in any other manner by mutual agreement obtain the use of towers, poles, lines, cables, and other equipment and facilities from utility companies operating within the City, and use towers, poles, lines, cables, and other equipment and facilities for the system. When and where practicable, the poles used by the Franchisee's distribution system shall be those erected and maintained by such utility companies operating within the City, provided mutually satisfactory

rental agreements can be reached. It is the City's desire that all holders of public franchises in the City cooperate with the Franchisee and allow the Franchisee the use of their poles and pole line facilities whenever possible so that the number of new or additional poles installed in the City may be minimized.

- (B) The Franchisee shall have the right to erect, install, and maintain its own towers, poles, guys, anchors, underground conduits, and manholes as may be necessary for the proper construction and maintenance of the antenna site, headend, and distribution system, providing that the Franchisee has at the work site the necessary City permit(s) or copy thereof, for scheduled work, obtained in advance from the appropriate City Department.
- (C) The Franchisee shall have the right to establish terms, conditions, and specifications governing the form, type, size, quantity, and location of equipment of others on its poles, and shall have the further right to charge a fair rental for attachment space or spaces occupied by the said equipment and plant of others, except that no rent shall be paid by the City for its attachment to the Franchisee's poles. The City shall pay any costs incurred by the Franchisee in providing space for the City's attachments, including any necessary rearrangements of the Franchisee's equipment and plant to provide room for City attachments. Upon expiration, termination, or revocation of a franchise, or should a Franchisee wish to dispose of any of its poles, conduit or manholes, being used by the City, the City shall have the option to purchase them in place of their fair value based upon reproduction cost less depreciation.
- (D) In those areas of the City where transmission or distribution facilities of both telephone and power companies are underground or hereafter may be placed underground, the Franchisee shall likewise construct, operate, and maintain all of its transmission and distribution facilities underground to the maximum extent the then existing technology permits, in accordance with the most recent National Electrical Code as adopted by the City, the Bureau of Standards Handbook No. 81, and the Telephone System Practices Governing Joint Attachment Practices, and their successor documents, as well as in conformance with all applicable state and municipal ordinances and codes. If and when necessary, amplifiers and/or transformers in the Franchisee's transmission and

distribution lines may be in appropriate housings on the surface of the ground. Such housings and the location and construction of all work required or pursuant to this section shall be approved in advance by the persons identified in Paragraph (B) of this section. Even when not required, underground installation is preferable to the placing of additional poles.

- (E) All transmission and distribution structures, lines, and equipment erected by the Franchisee in the City shall be located so as not to endanger or interfere with the normal use of streets, alleys, or other public ways and places so as to cause minimum interference with the rights or reasonable convenience of the general public and adjoining property owners and so as not to interfere with existing public utility installations and so as to comply with the most recent National Electrical Code as adopted by the City, the Bureau of Standards Handbook No. 81, and the Telephone System Practices Governing Joint Attachment Practices, and their successor documents, as well as in conformance with all applicable state and municipal ordinances and codes. The Franchisee shall make available to the City, maps, plats, and records of locations and character of all facilities for inspection at our local facility.

In the case of any disturbance by the Franchisee or its equipment of pavement, sidewalks, driveway, lawn, or other surfacing, the Franchisee shall, at its expense and in the manner required by the City, promptly replace and restore all such surfacing to as near as reasonably possible its prior or better condition.

- (F) The City reserves the right, upon reasonable notice, to require the Franchisee at its expense to protect, support, temporarily disconnect, relocate, or remove the Franchisee's equipment from a particular area of the City's streets if reasonably necessary by reason of traffic conditions; public safety, street construction or vacation; change or establishment of street grade; installation of sewers, drains, water pipes, power or communication lines, tracks, traffic signals, street lighting; or other conditions. Reasonable notice for this provision of the Chapter shall be construed to mean at least thirty (30) days, except in the case of emergencies.

- (G) The Franchisee shall not place poles, conduits, or other fixtures above or below ground where the same shall interfere with any gas, electric, telephone fixtures, water hydrant, or other utilities, and all such poles, conduits, or other fixtures above or below ground shall be so placed as to comply with all the requirements of the City.
- (H) The Franchisee shall, on request of any persons holding a moving permit issued by the City, temporarily move its wires or fixtures to permit the moving of buildings. The expense of such temporary removal shall be paid in advance by the person requesting the same, and the Franchisee shall be given not less than five (5) working days advance notice to arrange for such temporary changes.
- (I) The Franchisee shall have the authority, coextensive with the legal authority of the City, to trim any trees upon and overhanging the streets, alleys, sidewalks, and public place of the City so as to prevent the branches of such trees from coming in contact with wires and cables of the Franchisee, except that at the option of the City, trimming may be done by it or under its supervision and direction at the expense and liability of the Franchisee.

5-18-20 Consumer Service Standards. Nothing in this Ordinance shall be construed to prevent or prohibit: (i) the City of Muscatine and the Franchisee from agreeing to exceed the customer service standards set forth herein; (ii) the City from enforcing, through the franchise term, pre-existing customer service requirements that exceed the requirements set forth herein and are contained in current Franchise Agreements; (iii) the establishment or enforcement of any State or municipal law or regulation concerning customer service or consumer protection that imposes customer service or consumer protection requirements that exceed, or address matters not addressed herein.

The Franchisee shall maintain a local office to provide the necessary facilities, equipment and personnel to comply with the following consumer standards under normal conditions of operation:

- (E) Service Standards. The Franchisee shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Scheduled Service Interruptions, insofar as possible, shall be preceded by notice and shall occur during

periods of minimum use of the system. A written log or an equivalent stored in computer memory and capable of access and reproduction, shall be maintained for all Service Interruptions and requests for cable service as required by this Ordinance.

- (B) Telephone lines. Local toll-free or collect call telephone line capacity shall be made available by Franchisee to customers 24 hours per day, seven days a week, including holidays. The Franchisee shall use best efforts under Normal Operating Conditions during Normal Business Hours to ensure that a minimum average of ninety percent (90%) of all callers (measured on a quarterly basis) for service will not be required to wait more than thirty (30) seconds before being connected to a trained customer service representative, and shall receive a busy signal less than three percent (3%) of the time (measured on a quarterly basis). If the call needs to be transferred, the transfer time shall not exceed thirty (30) seconds. Inquiries received after normal business hours may be answered by a service or an automated response system, and such calls must be responded to by a trained company representative on the next business day.
- (C) Local office. A business and service office, conveniently located within the City, open during Normal Business Hours, and adequately staffed to accept subscriber payments and respond to service requests and complaints.
- (D) Installation staff. An installation staff shall install service to any subscriber located up to 125 feet from the existing distribution system within seven (7) days after receipt of a request. This Standard shall be met no less than ninety-five percent (95%) of the time, measured on a quarterly basis.
- (E) Installation, Outages and Service call scheduling. Franchisee shall schedule, either at a specific time, or, at maximum, within a specified four (4) hour time period, all appointments with subscribers for installation or service. Franchisee may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment. If a Franchisee representative is running late for an appointment with a

customer and will not be able to keep the appoint as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer. These Standards shall be met no less than ninety-five percent (95%) of the time, measured on a quarterly basis.

(F) Repair standards. The Franchisee shall maintain a repair force of technicians who, under Normal Operating Conditions, are capable of responding to subscriber requests for service within the following time frames:

1. System Service Interruption: Under Normal Operating Conditions, within two (2) hours, including weekends, of receiving subscribers calls which by number identify a system Service Interruption of sound or picture on one (1) or more channels, affecting all the subscribers of the system or two percent (2%) thereof.
2. Isolated Service Interruption: Within twenty-four (24) hours, including weekends, of receiving requests for service identifying an Isolated Service Interruption (less than 2% of subscribers) of sound or picture for one (1) or more channels. This Standard shall be met no less than ninety-five percent (95%) of the time, measured on a quarterly basis.
3. Inferior reception quality: Within forty-eight (48) hours, including weekends, of receiving a request for service identifying a problem concerning picture or sound quality. Franchisee shall be deemed to have responded to a request for service under the provisions of this Section when a technician arrives at the service location and begins work on the problem. In the case of a subscriber not being home when the technician arrives, response shall be deemed to have taken place if the technician leaves written notification of arrival.

(G) Notification of Service Interruption to Cable Television Advisory Commission. The Franchisee shall promptly notify the Municipal Administrator, in writing, or if appropriate, by oral communication, of any significant

interruption in the operation of the system. For the purposes of this section, a "significant interruption in the operation of the system" shall mean any interruption of sound or picture on one (1) or more channels a duration of at least one (1) hour to at least five percent (5%) of the subscribers, or an interruption of sound or picture on at least one (1) or more channels initiated by the Franchisee of at least four (4) hours to any single subscriber.

(H) Subscriber Credit for Service Interruption. Upon Service Interruption of subscriber's cable service, the following shall apply:

1. For Service Interruptions of over twelve (12) hours and up to fourteen (14) days, the Franchisee shall provide, at the subscriber's request, a credit of one-thirtieth (1/30) of one month's fees for affected services for each 24-hour period service is interrupted for twelve (12) or more hours for all affected subscribers.
2. For interruptions of fourteen (14) days or more in one month, the Franchisee shall provide, at the subscriber's request, a full month's credit for affected services for all affected subscribers.

5-18-21 Record of Complaints by Franchisee. Computer records setting forth the date and substance of each complaint received by phone, mail or other means during the preceding calendar month, if any, the name and address of each complaining party, and the date and nature of action taken by the Franchisee to respond to such complaints, or, if still pending, the status thereof, shall be maintained by the Franchisee and be available to the City for review for two years thereafter.

5-18-22 City Role in Complaints. Unresolved complaints concerning the system or its operation or maintenance shall be directed to the Office of the City Administrator. The City Administrator shall forward the complaint to the Franchisee or shall take the question up by correspondence with the Franchisee. Within such time as may be prescribed by the City Administrator, the Franchisee shall resolve the complaint or advise the City of its refusal or inability to do so. When the Franchisee resolves the complaint, it shall so notify the City. If a complaint has not been resolved, the complainant may petition the City to take any appropriate action authorized by this Chapter.

5-18-23 Review Sessions. In recognition of the fact that a great many technical, financial, marketing, and legal uncertainties are associated with all aspects of cable communications at the present time, it is the intent of the City to provide for a maximum feasible degree of flexibility in this franchise throughout its term to achieve an advanced and modern system for the City. The principal means for accomplishing this flexibility will be the scheduled review sessions provided for in this Chapter. It is intended that such review sessions will serve as a means of cooperatively working out solutions to problems that develop. Furthermore, such review sessions shall be two-way processes. For example, if either party has perceived that some major problem has developed, the session shall be devoted primarily to working out solutions acceptable to both parties.

5-18-24 Triennial Review Sessions. The City and the Franchisee shall hold scheduled review sessions no later than April 30, of calendar year 1997 and every third year thereafter for the duration of the franchise. All such review sessions shall be open to the public and notice thereof shall be published once, not less than ten (10) days nor more than twenty-five (25) days before each review session, as provided by law. The published notice shall specify the topics to be discussed.

5-18-25 Topics to be Reviewed. The following topics shall be discussed at every scheduled review session:

- Recent and Developing Judicial and Federal Communication Rulings
- Service Rate Structures
- Free and Discounted Services
- Application of New Technology or New Developments
- System Performance
- System Extension Policy
- Services Provided
- Programming Offered
- Customer Complaints Review
- Privacy and Human Rights
- Community Development and Education
- Interconnection
- New Services

Other topics, in addition to those listed, may be added by either party. Members of the general public may also request additional topics.

5-18-26 Services of Consultant Permitted. The City may utilize the services of a consultant to gain additional information for use

during the review sessions, renewal process and/or rate hearings, mediation, and arbitration sessions. The costs of such consultant shall be paid by the City.

5-18-27 Rate Regulation. The City reserves the right to regulate rates to the extent expressly permitted by Federal Law and FCC regulations.

5-18-28 Rate Adjustments. Any rate adjustments shall be filed with the City Clerk and the Cable Television Advisory Commission not later than 30 days prior to the implementation of the adjustment.

5-18-29 Switching Device. The Franchisee, upon request from any subscriber, shall install, at cost, a switching device to permit a subscriber to continue to utilize the subscriber's television antenna. The Franchisee shall not require the removal, or offer to remove, any subscriber's antenna or antenna lead-in wire. In order to restrict the viewing of unwanted programming upon the request of a subscriber, a cable operator shall provide (by sale or lease at a reasonable cost) a device by which the subscriber can prohibit viewing of a particular cable service during periods selected by that subscriber.

5-18-30 Disconnection. There shall be no charge for disconnection of any installation. If any subscriber fails to pay a fee or charge, the Franchisee may disconnect the subscriber's service. Such disconnection shall not be effected until the subscriber has been given ten (10) days advance written notice of the intention to disconnect. After disconnection, upon payment of any required delinquent fee or reconnection charge, the Franchisee shall promptly reinstate the subscriber's service.

5-18-31 Termination of Service. Within 30 days of termination of service to any subscriber for any reason, the Franchisee shall, upon the subscriber's written request, promptly remove all its facilities and equipment from the subscriber's premises without charge.

5-18-32 Unauthorized Connections or Modifications.

- (A) It shall be unlawful for any firm, person, group, company, or corporation, without the expressed consent of the Franchisee, to make any connection, extension, or division whether physically, acoustically, inductively, electronically, or otherwise with or to any segment of the system, except for residential inside wiring, for any purpose whatsoever.

- (B) It shall be unlawful for any firm, person, group, company, or corporation to willfully interfere, tamper, remove, obstruct, or damage any part, segment, or content of the system for any purpose whatsoever.
- (C) Any firm, person, group, company, or corporation convicted of a violation of this section shall be guilty of a misdemeanor, and shall be subject to all punishment under Iowa and Federal law.

5-18-33 Discriminatory or Preferential Practices. The Franchisee shall not, in making available the services or facilities of its system, or in its rules or regulations, or in any other respect, make or grant preferences or advantages to any subscriber or potential subscriber to the system, or to any user or potential user of the system and shall not subject any person to any prejudice or disadvantage based on their race, color, national origin or gender. This provision shall not prohibit promotional campaigns to stimulate subscriptions to the system or other legitimate uses thereof; nor shall it prohibit the establishment of a graduated scale of charges and classified rate schedules to which any customer coming within such classification shall be entitled.

5-18-34 Refunds to Subscribers and Programmers.

- (A) If the Franchisee fails to provide any material service requested by a subscriber or programmer in accordance with the current FCC standards, the Franchisee shall, after adequate notification and being afforded the opportunity to provide the service, promptly refund all deposits or advance charges paid for the service in question by the subscriber or programmer.
- (B) If any subscriber terminates for any other reason, the Franchisee shall refund the unused portion of any prepaid subscriber service fee on a daily pro rata basis.
- (C) Any disputes arising under this section shall be finally resolved in accordance with Section 22 of this Chapter.

5-18-35 Public Service Installations. The Franchisee shall, without charge for installation, maintenance, or service, install a single subscriber outlet at each public building and public school building in the City located within 200 feet of the existing feeder system. Such installations shall be made at such reasonable locations as shall be requested by the respective units of government or educational institutions. Any charge for relocation

of such installations shall, however, be made at actual cost. Additional installations at the same location may be made at cost. No monthly service charges shall be made for the provision of Basic Service and Expanded Basic within such buildings.

The Franchisee shall also provide free live audio and video origination connection of the Cable Television System for each of the following: City of Muscatine, Musser Public Library, Muscatine Art Center, Muscatine School District, Muscatine Community College, and Veterans' Plaza Complex, provided that such facilities are within 500 feet of the existing return system.

5-18-36 Other Business Activities. Subject to the right of the City Council to change this policy, the Franchisee shall not engage in the business of selling, repairing, or installing television receivers, excluding converters, in the City of Muscatine during the term of this franchise. Nothing herein shall be deemed to prohibit the Franchisee, at a customer's request, from examining and adjusting a customer's receiver set to determine whether reception difficulties originate in the set or in Franchisee's system.

5-18-37 Franchisee Fee. As compensation for the franchise granted herein and in consideration for the use of the streets and public ways of the City for the construction, operation, maintenance, and reconstruction of a system within the city, the Franchisee shall pay to the City an annual amount equal to five percent (5%) of the Franchisee's Gross Annual Revenues as defined in Section 5-18-2 of this Ordinance, provided, however, that such amount shall not include any taxes on Cable Service which are imposed directly or indirectly on any subscriber thereof by any governmental unit or agency and which are collected by the Franchisee on behalf of such governmental unit or agency. This includes, but is not limited to, all subscribers' payments, installation fees, converter boxes, advertising, leased access channels, pay-per-view and cable service exchanged in barter agreements. All funds due to the City pursuant to this subsection shall be deposited into the general fund of the City. Payment due to the City under this provision shall be made quarterly at the City Clerk's Office not later than 45 days following March 31, June 30, September 30 and December 31 each year. Any fee not paid when due shall bear interest at the rate of one and one-half percent (1 1/2%) per month from the date due. Each payment shall be accompanied by a detailed report showing the basis for the computation, specific income categories and such other relevant facts as may be required by the City. The acceptance of any payment shall not be construed as an accord that the amount paid is, in fact, the correct amount; nor shall such acceptance of payment be

construed as a release of any claim the City may have for additional sums payable by the Franchisee. All amounts paid shall be subject to audit and recomputation by the City.

5-18-38 Construction and Operation Timetable. The Franchisee shall commence construction of the system not later than thirty (30) days after issuance of all the necessary permits and agreements relating to the Cable Television System. The Franchisee shall apply for all these necessary permits and agreements thirty (30) days after award of the franchise by the City. The Franchisee shall conduct any engineering studies necessary to permit the commencement of construction within thirty (30) days after issuance of the permits or agreements. Within one (1) year after construction commences, the Franchisee shall complete its studios and cablecasting facilities and the same shall be fully operational. Within one (1) year after construction commences, the Franchisee shall reasonably make cable service available to at least thirty-five percent (35%) of the potential subscriber terminals in the City. Within two (2) years after construction commences, the Franchisee shall complete construction of the system within the City.

5-18-39 Right of Inspection of Construction. The City shall have the right to inspect all construction or installation work performed subject to the provisions of this permit and to make such inspections as it shall find necessary to ensure compliance with the terms of this permit and other pertinent provisions of law.

5-18-40 Technical Standards.

- (A) 1. Methods of construction, installation, and maintenance of the Cable Television System shall comply with the most recent National Electrical Code adopted by the City, to the extent that such Code is consistent with local law affecting the construction, installation, maintenance of electric supply and communications lines. To the extent that such Code is inconsistent with other provisions of this franchise or with local law, the latter shall govern. The Franchisee must obtain all necessary construction or excavation permits in advance from the City.
3. Any tower constructed for use in the Cable Television System shall comply with the standards contained in Structured Standards

for Steel Antenna Towers and Antenna Supporting Structures, EIA Standards RS-222-A, as published by the Engineering Department of the Electronic Industries Association, 2001 "I" Street, N.W., Washington, D.C. 20006.

3. Installation and physical dimensions of any tower constructed for use in the Cable Television System shall comply with all appropriate Federal Aviation Agency regulations.
 4. Any antenna structure used in the Cable Television System shall comply with all appropriate local, state and federal regulations.
 5. All working facilities and conditions used during construction, installation, and maintenance of the Cable Television System shall comply with the standards of the Occupational Safety and Health Administration.
- (B) 1. Whenever a pattern of similar complaints emerges, or where there exists other evidence, which, in the judgment of the City, casts doubt on the reliability or quality of cable service, the City shall have the right and authority to compel the Franchisee to test, analyze, and report on the performance of the system. The City's right under this provision shall be limited to requiring tests, analyses, and reports covering specific subjects and characteristics based on said complaints or other evidence when and under such circumstances as the City has reasonable grounds to believe that the complaints or other evidence require that tests be performed to protect the public against substandard cable service.
2. Any special performance tests or measurements required by the City to be taken pursuant to subsection (3)1 shall be reported to the City within fourteen (14) days after such tests or measurements are performed. Such report shall include the following information: the nature

of the complaint which precipitated the special tests; what system component was tested, the equipment used, and procedures employed in said testing; the results of such tests; and the method in which such complaints were resolved. Any other information pertinent to the special test shall be recorded.

(C) Should any of the following occur, the Franchisee must notify the Commission within thirty (30) days prior to any change regarding:

1. Addition to, deletion of, or change in received channel.
2. Addition to, deletion of, or change in distributed channel or in channel conversion.
3. Change in location of headend or antenna sites.
4. Addition to or changes in location of centers for origination of programs and the installation of bi-directional facilities or additional lines to make connection to the headend.
5. Interconnection with other cable systems.

(D) The Franchisee must comply with all FCC technical standards.

5-18-41 New Developments. The Franchisee is encouraged to upgrade its facilities, equipment, and service so that its system is as advanced as the current state of production technology will allow. Such new developments shall be a topic of discussion at all review sessions and shall be a factor to be considered in connection with requests for rate adjustments.

5-18-42 Communications with Regulatory Agencies. Copies of all petitions, applications, communications, reports, and all other documents submitted by the Franchisee or its parent companies to the FCC, Securities and Exchange Commission, or any other Federal or State regulator commission or agency shall be made available to the City upon written request to Franchisee.

5-18-42

5-18-44

5-18-43 Annual Report. No later than ninety (90) days after the close of the Franchisee's fiscal year, the Franchisee shall submit a detailed written informative report to the City, including the following information pertaining only to the Muscatine franchise:

- (A) A summary of the previous year's activities in development of the system, including, but not limited to, services begun or dropped and subscribers gained or lost.
- (B) A detailed revenue statement including a breakdown of all revenue sources upon which the City can verify Franchise Fee accuracy.
- (C) A current statement on the cost of construction by project categories.
- (D) A summary of complaints, identifying the number and specific nature of complaints and their disposition.
- (E) A list of key management for the Muscatine franchise along with their addresses and job titles.
- (F) The City shall have the right to have an independent firm of certified public accountants appointed by the City to inspect the Franchisee's books and records at reasonable times. Such firm of certified public accountants will be paid by the City and approved by the Franchisee, which approval will not be unreasonably withheld. Said accountant or accountants shall not disclose to the City any information other than that relating solely to the accuracy and completeness of payments and reports required of the Franchisee by this Chapter. At the time of any such inspection, Franchisee will make all books and records necessary for such inspection available at the Franchisee's Muscatine office.
- (G) The annual report of the parent company of a public corporation.
- (H) A summary of types of communication signals and services provided without charge or provided under a barter arrangement along with their dollar equivalent.

5-18-44 Security Fund and Performance Bond.

- (A) Within ten (10) days after execution of the Franchise Agreement, the Franchisee shall deposit with the City

Clerk, and maintain on deposit through the term of this franchise, the sum of \$5,000.00 as security for the faithful performance by it of all the provisions of this franchise and compliance with all orders, permits, and directions of any agency of the City having jurisdiction over its acts or defaults under this contract, and the payment by the Franchisee of any claims, liens, and taxes due the City which arise by reason of the construction, operation, or maintenance of the system.

- (B) Within ten (10) days after notice to it that any amount has been withdrawn from the security fund deposited pursuant to subdivision (A) of this section, the Franchisee shall pay to, or deposit with, the City Clerk a sum of money sufficient to restore such security fund to the original amount of \$5,000.00.
- (C) If the Franchisee fails to pay to the City any compensation within the time fixed herein; or fails after ten (10) days notice to pay to the City any taxes due and unpaid; or fails to repay to the City within such ten (10) days, any damages, costs, or expenses which the City shall be compelled to pay by reason of any act or default of the Franchisee in connection with this franchise; or fails after three (3) days notice of such failure by the City Council to comply with any provision of this contract which the City Council reasonably determines can be remedied by an expenditure of the security, the City Clerk may immediately withdraw the amount thereof, with interest and any penalties, from the security fund. Upon such withdrawal, the City Clerk shall notify the company of the amount and date thereof.
- (D) The security fund deposited pursuant to this section shall become the property of the City in the event that this contract is cancelled by reason of the default of the Franchisee. The Franchisee, however, shall be entitled to the return of such security fund, or portion thereof, as remains on deposit at the expiration of the term of this contract, provided that there is then no outstanding default on the part of the Franchisee. Interest earned by the investment of the security fund will accrue to the Franchisee.
- (E) The rights reserved to the City with respect to the security fund are in addition to all other rights of the City, whether reserved by this contract or authorized by

law, and no action, proceeding, or exercise of a right with respect to such security fund shall affect any other right the City may have.

- (F) Performance Bond. On or before the effective date of its franchise, the Franchisee shall post a performance bond in favor of the City in the amount of \$45,000.00 as security for the faith or performance by it of all the provisions of this ordinance; compliance with all orders, permits, and directions of any agency of the City having jurisdiction over acts or defaults under this ordinance; and payment by the Franchisee of any claims due to the City which arise by reason of construction, operation, or maintenance of the system. Bonds shall be approved by the City's legal department.
- (G) In lieu of any bonds and other surety required of the Franchisee herein or other franchise document with the Franchising Authority, Franchising Authority agrees to accept a guarantee in lieu of bond from parent corporation of an incumbent Franchisee, in form and substance reasonably satisfactory to the Franchising Authority.

5-18-45 Cancellation and Expiration.

- (A) The Franchisee shall not be declared in default or be subject to any sanction under this ordinance where the Franchisee's performance is prevented for reasons beyond its control.
- (B) The Franchisee shall not be entitled to damages from the City sustained by the virtue of the closing, vacation, or relocation of any streets or alleys.
- (C) Upon cancellation or expiration of the franchise, the City may, in a lawful manner and upon payment in readily available funds, purchase the system for a price equal to its fair market value. The fair market value shall be determined by an independent organization acceptable to both parties in accordance with generally accepted cable television appraisal and accounting principles. The original cost of all tangible and intangible property, as well as salvage value, the book value, and replacement cost, cash flow, and other factors may be considered. However, under no circumstances shall any valuation be

made for any right or privilege granted pursuant to this Chapter. Should a dispute arise over the determination of the fair market value of the system, the dispute shall be resolved by arbitration in accord with the rules of the American Arbitration Association. If the City elects to purchase the system, the Franchisee shall promptly execute all documents necessary to transfer title to the City and shall assign all of the contracts, leases, licenses, permits, and any other rights necessary to maintain continuity of service to the public. The Franchisee shall cooperate with the City to operate the system for a temporary period, in maintaining continuity of service. Nothing herein is intended as a waiver of any rights the City may have.

5-18-46 Enforcement. The Franchisee shall not be relieved of its obligation to comply with this ordinance by reason of the City's failure to enforce prompt compliance.

5-18-47 Indemnification. The Franchisee shall defend, indemnify, protect, and hold harmless the City from and against any and all liability, losses, and damage to property or bodily injury or death to any person, including payments made under workmen's compensation laws, which may arise out of or be caused by the erection, construction, replacement, removal, maintenance, or operation of Franchisee's Cable Television System and caused by any act or failure to act on the part of the Franchisee, its agents, officers, servants, or employees.

5-18-48 Insurance. The Franchisee shall maintain insurance in such amounts and kinds of coverages as may be specified by the City. Such coverages may be adjusted by the City with ninety (90) day notification. The Franchisee shall maintain such insurance with insurance underwriters authorized to do business in the State of Iowa. All policies shall name the City, its employees, servants, agents, and officers as additional insured parties. Certified copies of the insurance policies required by this section shall be filed with the City Clerk prior to the commencement of construction. Each policy shall provide that it may not be cancelled nor the amount of coverage altered until thirty (30) days after receipt by the City Clerk of a registered mail notice of such intent to cancel or alter coverage.

- (A) The Franchisee shall maintain and provide to the City Clerk proof of Public Liability Insurance for not less than the following amounts:

5-18-48

5-18-52

\$1,000,000 Any 1 Occurrence, Bodily Injury or Property Damage

\$1,000,000 Personal or Advertising Injury Liability, Any 1 Person or Organization

\$1,000,000 Products/Completed Operations Annual Aggregate Liability

\$5,000,000 General Aggregate

5-18-49 Foreclosure. A foreclosure or other judicial sale of all or part of the system shall be treated as a change in control of the Franchisee and the provisions of Section 6 of this Chapter shall apply.

5-18-50 Receivership. The City shall have the right to cancel this franchise one hundred twenty (120) days after the appointment of a receiver or trustee, to take over and conduct the businesses of the Franchisee, whether in receivership, reorganization, bankruptcy, or other action or proceedings, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred twenty (120) days, or unless:

- (A) Within one hundred twenty (120) days after being elected or appointed such receiver or trustee shall have fully complied with all provisions of this ordinance and remedied all defaults thereunder; and
- (B) Shall have executed an agreement, approved by the court having jurisdiction, whereby such receiver or trustee agrees to be bound by this Chapter and the franchise granted to the Franchisee.

5-18-51 Publication of Notice. Whenever the provisions of this Chapter require that notice be published, such notice shall be prepared and published by the City. The cost of publication will be borne by the Franchisee.

5-18-52 Cost of Publication and Election. The Applicant shall assume the costs of publication of this Chapter, the costs of any other legal publication for amendments to this Chapter prior to franchise award, the costs of publication of any other ordinances or legal documents prior to franchise award, and the costs of the special election. The Franchisee seeking renewal shall assume the costs of publishing this chapter.

5-18-53 Transmission of Documents to City. Unless otherwise specifically provided, whenever the provisions of this Chapter require transmission of documents from the Franchisee to the City, such documents shall be mailed or delivered to the office of the City Clerk, City Hall, Muscatine, Iowa 52761, or to such other person as the City may in writing designate.

5-18-54 Severability. If any section, sentence, clause, or phrase of this Chapter is held unconstitutional, unenforceable or otherwise invalid, by the Federal Communications Commission, other Federal or State regulatory body, or any court of competent jurisdiction, such infirmity shall not affect the validity of this Chapter, and any portions in conflict are hereby repealed.

5-18-55 Repealer. All ordinances or parts of ordinances in conflict with the provisions of this Chapter are hereby repealed.

TITLE 5 BUSINESS REGULATIONS

CHAPTER 19

CABLE TELEVISION SYSTEM FRANCHISE

Sections:

- 5-19-1 Term of Franchise
- 5-19-2 Effective Date of Franchise and Acceptance of Franchise
- 5-19-3 Rebuild of System
- 5-19-4 Transfer of Franchise
- 5-19-5 Severability
- 5-19-6 Adoption
- 5-19-7 Equal Protection

5-19-1 Term of Franchise. Cablevision VII Inc., its successors and assigns, is hereby granted a renewal of their non-exclusive right, franchise and authority for a period of fifteen (15) years to erect, maintain and operate a Cable Television System in Muscatine, Iowa, and to sell and supply individuals, firms and corporations within the corporate limits of the City of Muscatine, Iowa, Cable Service and other services in, along, among, upon, across, above, over, under, or in any manner connected with Public Ways within the Service Area and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain or retain in, on, over, under, upon, across, or along any Public Way and all extensions thereof and additions thereto, such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the Cable System, subject to the conditions and restrictions provided and subject to the cable television regulatory ordinance, passed and adopted July 21, 1994.

5-19-2. Effective Date of Franchise and Acceptance of Franchise. This franchise and all rights thereunder shall become effective after final passage and publication hereof; within thirty (30) days after the effective date of this franchise ordinance renewal, Cablevision VII Inc. shall file with the Clerk an acceptance in writing of this franchise renewal and pay all costs as required under the laws of the State of Iowa.

5-19-3. Rebuild of System. The Franchisee shall rebuild/upgrade its system to a capacity capable of at least 60 channels utilizing fiber optics as necessary to replace existing

trunkline in a manner which permits the Franchisee to take full advantage of the benefits of that technology, including increased reliability and improved system performance. Work shall be completed no later than December 31, 1998.

5-19-4 Transfer of Franchise. The Franchisee's right, title, or interest in the Franchise shall not be sold, transferred, assigned, or otherwise encumbered, other than to an entity controlling, controlled by, or under common control with the Franchisee, without the prior consent of the Franchising Authority, such consent not to be unreasonably withheld. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Franchisee in the Franchise or System in order to secure indebtedness. Within 30 days of receiving the request for transfer, the Franchising Authority shall in accordance with FCC rules and regulations, notify the Franchisee in writing of the information it requires to determine the legal, financial and technical qualifications of the transferee.

5-19-5 Severability. If any section, subsection, sentence, clause, phrase, or portion of this franchise ordinance shall be held invalid or unenforceable or unconstitutional, the remaining provisions shall remain in full force and effect.

5-19-6 Adoption. This franchise renewal was awarded by the City Council on August 18, 1994 and was published as required on September 7, 1994 and therefore, this franchise renewal shall expire on September 7, 2009.

5-19-7 Equal Protection'. In the event the Franchising Authority enters into a franchise, permit, license authorization or other agreement of any kind with any other person or entity other than the Franchisee to enter into the Franchising Authority's streets and Public Ways for the purpose of constructing or operating a Cable System or providing Cable Service to any part of the Service Area, the material provisions thereof shall be reasonably comparable to those contained herein, in order that the operator not be granted an unfair competitive advantage over another and to provide all parties equal protection under the law.

TITLE 5 BUSINESS REGULATIONS
 CHAPTER 20
 RESIDENTIAL SALES

SECTIONS:

5-20-1	Purpose
5-20-2	Definitions
5-20-3	Signs
5-20-4	Residential Sale Regulations
5-20-5	Enforcement

5-20-1 Purpose. The purpose of this Chapter is to regulate the signage and actual sale of personal property from residentially zoned property to prevent undue commercialization of residential neighborhoods.

5-20-2 Definitions. For the purposes of this Chapter, the following terms set forth have the following meanings:

- (A) "Residential Sale" shall mean the sale from a lot or parcel of items of personal property either belonging to the owner or permitted by the owner to be sold on said parcel or lot. "Residential Sale" shall include the commonly referred terms "yard sale", "porch sale", "garage sale", "rummage sale", "bazaar", etc. "Residential Sale" shall not be defined as any sale of new property, property sold from any zone other than residential, and special events which would require approval of the City.
- (B) "Residential Zone" shall be any lot or parcel which is located in an "R" District as shown on the official Zoning Map for the City.
- (C) "Substantiated Complaint" shall be a complaint received by the City alleging a violation of this Chapter which shall require the complaining party to assist the City in a prosecution; up to and including testimony in a court of law.
- (D) "Sign" shall mean any temporary sign advertising a residential sale.

5-20-3 Signs. The following regulations shall govern the number, type, location, and duration for all signs associated with residential sales:

- (A) A resident shall be limited to not more than one non-illuminated sign, which shall be wholly maintained on private property, not to exceed four (4) square feet in area, to advertise the sale. Other signs are prohibited.
- (B) Residential sale signs shall not be erected until twenty-four (24) hours prior to the sale and shall be removed within twenty-four (24) hours of the expiration of the same.
- (C) Signs shall not be placed within any public right-of-way. Signs which are noticed by any City employee to be placed in violation of this Section shall be removed immediately by that employee and disposed of. Violation of this Section shall result in the issuance of a citation to the owner of the property referenced on the sign as follows:
 - 1. Upon the first conviction, the owner shall be subject to the payment of a fine of ten dollars (\$10.00); upon the second and subsequent conviction, the owner shall be fined twenty-five dollars (\$25.00); and upon the third and all subsequent convictions, shall be fined an amount not less than fifty dollars (\$50.00) nor more than seventy-five dollars (\$75.00) or be subject to not more than thirty (30) days in jail.

5-20-4 Residential Sales Regulations. Persons conducting residential sales shall comply with the following regulations governing these sales:

- (A) A residential sale shall be limited to a term not exceeding seventy-two (72) hours in length.
- (B) Not more than three (3) residential sales may be conducted from any lot or parcel during the calendar year.

5-20-5 Enforcement. It shall be the policy of the City to enforce the regulations under this Chapter by "substantial complaint", except as provided in Section 5-20-3.